2021

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September 2021

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2021 REGULAR SESSION
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 5

Titles 17 to 19

(As Revised 2012)

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By the Editorial Staff of the Publisher

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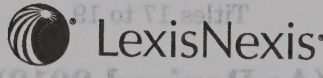
ISBN 978-0-327-09628-3 (Code set)
ISBN 978-0-7698-5378-9 (Volume 5)



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9443 Springboro Pike, Miamisburg, OH 45342

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(Pub. 44510)

User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

PUBLISHER'S FOREWORD

Statutes

The 2021 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2021 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 4th Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2021 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2021 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 17. LOCAL GOVERNMENT; PROVISIONS COMMON TO COUNTIES AND MUNICIPALITIES

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LIMITATIONS ON AUTHORITY TO REGULATE HOW PRIVATE EMPLOYER PAYS ITS EMPLOYEES

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17-1-51. Establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days that would regulate how private employer pays employees prohibited; legislative findings.

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17-1-55. Construction of Sections 17-1-51 through 17-1-55.

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17-25-34. Prohibition against law, rule, ordinance, etc. interfering with employer's ability to be informed about employee or potential employee background.

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TITLE 19. COUNTIES AND COUNTY OFFICERS

CHAPTER 3. Board of Supervisors

IN GENERAL

19-3-48. Monthly office allowance for attorney employed by board.

CHAPTER 11. County Budget

19-11-14. Clerk of board of supervisors to record into county accounting system year-end adjusting accounting entries recommended by external financial auditor; board to spread upon minutes reasons that any recommended entries were not recorded.

CHAPTER 13. Contracts, Claims and Transaction of Business with Counties

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19-13-22. Road maintenance agreements with certain taxpayers.

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VOLUME FIVE

TITLE 17.

LOCAL GOVERNMENT; PROVISIONS COMMON TO COUNTIES AND MUNICIPALITIES

CHAPTER 1.

ZONING, PLANNING AND SUBDIVISION REGULATION

GENERAL PROVISIONS

§ 17-1-1. Definitions.

The following words, whenever used in this chapter, shall, unless a different meaning clearly appears from the context, have the following meanings:

(a) "Municipality" means any incorporated city, town or village within the state.

(b) "Governing authority" or "governing authorities," in the case of counties, means the board of supervisors of the county, and, in the case of municipalities, means the council, board, commissioners or other legislative body charged by law with governing the municipality.

(c) "Comprehensive plan" means a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body, consisting of the following elements at a minimum:

(i) Goals and objectives for the long-range (twenty (20) to twenty-five (25) years) development of the county or municipality. Required goals and objectives shall address, at a minimum, residential, commercial and industrial development; parks, open space and recreation; street or road improvements; public schools and community facilities.

(ii) A land use plan which designates in map or policy form the proposed general distribution and extent of the uses of land for residences, commerce, industry, recreation and open space, public/quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following: residential densities; intensity of commercial uses; industrial and public/quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area encompassed by the plan may be the basis for quantitative recommendations for each land use category.

(iii) A transportation plan depicting in map form the proposed functional classifications for all existing and proposed streets, roads and highways for the area encompassed by the land use plan and for the same time period as that covered by the land use plan. Functional classifications shall consist of arterial, collector and local streets, roads and highways, and these classifications shall be defined on the plan as to minimum right-of-way and surface width requirements; these requirements shall be based upon traffic projections. All other forms of transportation pertinent to the local jurisdiction shall be addressed as appropriate. The transportation plan shall be a basis for a capital improvements program.

(iv) A community facilities plan as a basis for a capital improvements program including, but not limited to, the following: housing; schools; parks and recreation; public buildings and facilities; and utilities and drainage.

(d) "Amateur radio service" means those individuals and stations licensed by the Federal Communications Commission to broadcast amateur radio signals regardless of the transmission mode.

(e) "Agricultural operation" means the facilities, sites and uses defined in Section 95-3-29(2)(a).

(f) "Forestry activity" means the activity defined in Section 95-3-29(2)(b).

(g) "Traditional farm practices" means the customs and standards defined in Section 95-3-29(2)(c).

HISTORY: Laws, 1988, ch. 483, § 1; Laws, 2001, ch. 314, § 1; Laws, 2006, ch. 340, § 1, eff from and after passage (approved Mar. 13, 2006); Laws, 2018, ch. 377, § 1, eff from and after passage (approved March 16, 2018).

Amendment Notes — The 2018 amendment, effective March 16, 2018, added (e) through (g).

§ 17-1-3. General powers; reasonable accommodation of amateur radio communications.

(1) Except as otherwise provided in Section 17-1-21(2) and in Article VII of the Chickasaw Trail Economic Development Compact described in Section 57-36-1, for the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, are empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required with reference to land used for agricultural purposes, including forestry activities as defined in Section 95-3-29(2)(b), or for the erection, maintenance, repair or extension of farm buildings or farm structures, including forestry buildings and structures, outside the corporate limits of municipalities. The governing authority of each county and municipality may create playgrounds and public parks, and for these purposes, each of such governing authorities shall possess the power, where requisite, of eminent domain and the right to apply public money thereto, and may issue bonds therefor as otherwise permitted by law.

(2) Local land use regulation ordinances involving the placement, screening, or height of amateur radio antenna structures must reasonably accommodate amateur communications and must constitute the minimum practicable regulation to accomplish local authorities' legitimate purposes of addressing health, safety, welfare and aesthetic considerations. Judgments as to the types of reasonable accommodation to be made and the minimum practicable regulation necessary to address these purposes will be determined by local governing authorities within the parameters of the law. This legislation supports the amateur radio service in preparing for and providing emergency communications for the State of Mississippi and local emergency management agencies.

HISTORY: Codes, 1930, § 2474; 1942, §§ 2890.5, 3590; Laws, 1926, ch. 308; Laws, 1938, ch. 333; Laws, 1946, ch. 292; Laws, 1956, ch. 197, §§ 1-6; Laws, 1958, chs. 520, 532; Laws, 1960, ch. 402; Laws, 1994, ch. 647, § 1; Laws, 1998, ch. 553, § 3; Laws, 2006, ch. 340, § 2, eff from and after passage (approved Mar. 13, 2006); Laws, 2018, ch. 377, § 2, eff from and after passage (approved March 16, 2018).

Amendment Notes — The 2018 amendment, effective March 16, 2018, in the first sentence of (1), inserted "Section 17-1-21(2) and in" near the beginning, and substituted

"as defined in Section 95-3-29(2)(b)" for "as defined in Section 95–3–29(2)(c)" near the end.

OPINIONS OF THE ATTORNEY GENERAL

Section 17-1-3 prohibits requiring the issuing of building permits and payment of building permit fees for farm buildings or other farm structures. Section 17-2-7 prohibits the enforcement of building codes, including the International Building Codes, on farm structures. However, such exemptions do not include farm residences. Cummings, Sept. 29, 2006, A.G. Op. 06-0436.

RESEARCH REFERENCES

ALR.

Validity of Zoning Regulations Prohibiting or Regulating Removal or Exploitation of Oil and Gas, Including Hydrofracking. 84 A.L.R.6th 229.

§ 17-1-15. Procedure for establishing, amending, etc., of regulations, zone boundaries, etc.; notice and hearing.

JUDICIAL DECISIONS

6. Judicial review.

Appellants failed to show that a 2006 rezoning of the subject property from residential to commercial was void as a matter of law. The record showed sufficient evidence of a change of conditions was presented to support the rezoning. Den Herder v. Madison Cty. Bd. of Supervisors, 271 So. 3d 666, 2018 Miss. App. LEXIS 588 (Miss. Ct. App. 2018).

§ 17-1-17. Changes.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Changes in regulations, restrictions, and boundaries.
5. Judicial review.

1. In general.

Enough citizens did not raise timely objections to a special exception to require a super-majority vote for a special exception by a city planning commission as one property owner filed two separate objections for the same property and another owner's property was outside of the 160-foot radius requirement, which voided that owner's objection. Trappey v. Newman, 281 So. 3d 58, 2019 Miss. App. LEXIS 10 (Miss. Ct. App. 2019).

2. Changes in regulations, restrictions, and boundaries.

Resident's due process rights were violated when a city's board of aldermen failed to notify him of the board meeting where it considered and denied his rezoning request because the resident was not given notice of the board's meeting where his rezoning request was denied. McKee v. City of Starkville, 97 So. 3d 97, 2012 Miss. App. LEXIS 480 (Miss. Ct. App. 2012).

5. Judicial review.

Circuit court erred in granting summary judgment for a city in a property owner's action alleging that the city improperly rezoned her commercial property to residential because a genuine dispute of material facts existed, and the owner could meet an exception to the require-

ment of exhausting her administrative; if the city unconstitutionally rezoned the property, any attempt to rezone would be unnecessary, as any unconstitutional rezoning was void. Durr v. City of Picayune, 185 So. 3d 1042, 2015 Miss. App. LEXIS 362 (Miss. Ct. App. 2015), cert. denied, 185 So. 3d 385, 2016 Miss. LEXIS 89 (Miss. 2016).

§ 17-1-19. Remedies of local governing authorities.

JUDICIAL DECISIONS

3. Discretionary function

Zoning enforcement by cities and county boards is a discretionary function; the statute gives authorities the discretion to choose the enforcement avenue they find best in light of the circumstances, but nothing mandates enforcement altogether. When Bolivar County's Development Code uses the word "shall," it does so only in the context of the job description for the person the Bolivar County Board of Supervisors employs to enforce the code, and this language does not apply to the Board itself in making overall enforcement decisions. Short v. Bolivar Cty. Bd. of Supervisors, 303 So. 3d 87, 2020 Miss. App. LEXIS 470 (Miss. Ct. App. 2020).

§ 17-1-21. When local regulations to govern; regulations restricting agricultural operation, forestry activity or traditional farm practices on agricultural land prohibited by municipalities; exceptions.

(1) Except as otherwise provided in subsection (2) of this section and in Article VII of the Chickasaw Trail Economic Development Compact described in Section 57-36-1, whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building, or a less number of stories, or a greater percentage of lot to be left unoccupied, or impose other standards higher than are required by the regulations made under the authority of Sections 17-1-1 through 17-1-27, inclusive, the provisions of such other statute, or local ordinance or regulation shall govern; otherwise the provisions of the regulations made under the authority of Sections 17-1-1 through 17-1-27, inclusive, shall be controlling.

(2)(a) No governing authority of any municipality or of any county shall adopt or impose any ordinance, regulation, rule or policy that prohibits or restricts agricultural operation, forestry activity or traditional farm practices on agricultural land or land that is otherwise unclassified if the land is used for an agricultural operation, forestry activity or traditional farm practices. Additionally, if the activities being conducted on the land are regulated by the Mississippi Department of Environmental Quality, the Mississippi Department of Agriculture and Commerce or the Mississippi Forestry Commission, the provisions of those agencies' statutes or the regulations promulgated by those agencies shall govern.

(b) However, a governing authority of any municipality or of any county may enact or impose ordinances, regulations, rules or policies that prohibit or restrict agricultural, forestry or traditional farm practices or the erection

of any building, structure or improvement upon land with such agricultural, forestry or traditional farm practices or lands governed by the Mississippi Department of Environmental Quality, the Mississippi Department of Agriculture and Commerce or the Mississippi Forestry Commission if such land is under Federal Aviation Administration Part 77 restrictions or if such activity, building, structure or improvement creates obstruction to navigable airspace.

(c) Paragraph (a) of this subsection shall not affect any ordinance, regulation, rule, or policy that is in effect, adopted, or amended prior to the effective date of this act. Additionally, paragraph (a) of this subsection shall not be construed to affect the discretion of a county or municipal governing authority to reclassify property from one zone to another as otherwise permitted by law.

HISTORY: Codes, 1930, § 2481; 1942, § 3597; Laws, 1926, ch. 308; Laws, 1998, ch. 553, § 7, eff from and after July 1, 1998; Laws, 2018, ch. 377, § 3, eff from and after passage (approved March 16, 2018).

Amendment Notes — The 2018 amendment, effective March 16, 2018, inserted "subsection (2) of this section and in" in (1); and added (2).

§ 17-1-23. Subdivision regulation.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Acceptance of dedication.

1. In general.

Approval of the subdivision's preliminary plat was affirmed as Miss. Code Ann. § 17-1-23(3) (Rev. 2012) did not require rezoning based on the entrance of lots onto a public road, and there was no showing of how the city contradicted the comprehensive plan or failed to apply its ordinances. Gallagher v. City of Waveland, 182 So. 3d 471, 2015 Miss. App. LEXIS 274 (Miss. Ct. App. 2015), cert. denied, 181 So. 3d 1010, 2016 Miss. LEXIS 36 (Miss. 2016).

Approval of the subdivision's preliminary plat was affirmed as Miss. Code Ann. § 17-1-23(3) (Rev. 2012) did not require rezoning based on the entrance of lots onto a public road, and there was no showing of how the city contradicted the comprehensive plan or failed to apply its ordinances. Gallagher v. City of Waveland, 182 So. 3d 471, 2015 Miss. App. LEXIS 274 (Miss. Ct. App. 2015), cert. denied, 181 So. 3d 1010, 2016 Miss. LEXIS 36 (Miss. 2016).

2. Acceptance of dedication.

It was not shown that a county statutorily accepted a road's dedication because (1) Miss. Code Ann. § 17-1-23(3) did not apply to counties, and (2) Miss. Code Ann. § 17-1-23(2) only gave the county board of supervisors discretion to act. McBroom v. Jackson County, 154 So. 3d 827, 2014 Miss. LEXIS 491 (Miss. 2014).

REGIONAL PLANNING COMMISSION

§ 17-1-29. Regional planning commissions; membership.

OPINIONS OF THE ATTORNEY GENERAL

Planning and Development Districts are either public entities or instrumentalities of political subdivisions of the state and, as such, are subject to audit by the State Auditor. McLeod, Nov. 26, 2003, A.G. Op. 03-0573.

LIMITATIONS ON AUTHORITY TO REGULATE HOW PRIVATE EMPLOYER PAYS ITS EMPLOYEES

Sec.

§ 17-1-51. Establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days that would regulate how private employer pays employees prohibited; legislative findings.

(1) No county, board of supervisors of a county, municipality or governing authority of a municipality is authorized to establish a mandatory, minimum living wage rate, minimum number of vacation or sick days, whether paid or unpaid, that would regulate how a private employer pays its employees. Each county, board of supervisors of a county, municipality or governing authority of a municipality shall be prohibited from establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days, whether paid or unpaid, that would regulate how a private employer pays its employees.

(2) The Legislature finds that the prohibitions of subsection (1) of this section are necessary to ensure an economic climate conducive to new business development and job growth in the State of Mississippi. We believe that inconsistent application of wage and benefit laws from city to city or county to county must be avoided. While not suggesting a state minimum wage or minimum benefit package, any debate and subsequent action on these matters should be assigned to the Mississippi Legislature as provided in Section 25-3-40, and not local counties or municipalities.

(3) The Legislature further finds that wages and employee benefits comprise the most significant expense of operating a business. It also recognizes that neither potential employees or business patrons are likely to restrict themselves to employment opportunities or goods and services in any particular county or municipality. Consequently, local variations in legally required minimum wage rates or mandatory minimum number of vacation or sick leave

days would threaten many businesses with a loss of employees to local governments which require a higher minimum wage rate and many other businesses with the loss of patrons to areas which allow for a lower wage rate and more or less vacation or sick days. The net effect of this situation would be detrimental to the business environment of the state and to the citizens, businesses and governments of the local jurisdictions as well as the local labor markets.

(4) The Legislature concludes from these findings that, in order for a business to remain competitive and yet attract and retain the highest possible caliber of employees, and thereby remain sound, an enterprise must work in a uniform environment with respect to minimum wage rates, and mandatory minimum number of vacation or sick leave days. The net impact of local variations in mandated wages and mandatory minimum number of vacation or sick leave days would be economically unstable and create a decline and decrease in the standard of living for the citizens of the state. Consequently, decisions regarding minimum wage, living wage and other employee benefit policies must be made by the state as provided in Section 25-3-40, so that consistency in the wage market is preserved.

HISTORY: Laws, 2013, ch. 445, § 1, eff from and after July 1, 2013.

§ 17-1-53. Relation to Sections 17-21-1, 17-21-5 and 17-21-7.

The provisions of Sections 17-1-51 through 17-1-55 shall not impede or supersede a municipality's authority granted under Sections 17-21-1, 17-21-5 and 17-21-7.

HISTORY: Laws, 2013, ch. 445, § 2, eff from and after July 1, 2013.

§ 17-1-55. Construction of Sections 17-1-51 through 17-1-55.

Sections 17-1-51 through 17-1-55 shall not be construed to limit the authority of counties and municipalities to grant tax exemptions authorized by state law.

HISTORY: Laws, 2013, ch. 445, § 3, eff from and after July 1, 2013.

LIMITATIONS ON AUTHORITY OF LOCAL GOVERNMENTS TO REGULATE CERTAIN AUXILIARY CONTAINERS.

Sec.

§ 17-1-71 Definitions.

As used in Sections 17-1-71 through 17-1-75:

(a) "Auxiliary container" means a bag, cup, bottle or other packaging, whether reusable or single-use, that meets both of the following requirements:

(i) Is made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated or multilayer substrates; and

(ii) Is designed for transporting, consuming or protecting merchandise, food or beverages from or at a food service, including manufacturing, distribution or further processing, retail facility.

(b) "Local unit of government" means a county, municipality, local taxing entity or any local political subdivision thereof.

HISTORY: Laws, 2018, ch. 388, § 1, eff from and after July 1, 2018.

§ 17-1-73. Limitations on authority of local governments to regulate the use, disposition or sale of, or prohibit, restrict, or impose fee, charge or tax on certain auxiliary containers.

Subject to Section 17-1-75, a local unit of government shall not adopt or enforce an ordinance that does any of the following:

(a) Regulates the use, disposition or sale of auxiliary containers.

(b) Prohibits or restricts auxiliary containers.

(c) Imposes a fee, charge or tax on auxiliary containers, or additional sales tax to consumers.

HISTORY: Laws, 2018, ch. 388, § 2, eff from and after July 1, 2018.

Cross References — For construction of this section, see § 17-1-75.

§ 17-1-75. Construction of Section 17-1-73.

(1) Section 17-1-73 shall not be construed to prohibit or restrict any of the following:

(a) A curbside recycling program.

(b) A designated residential or commercial recycling location.

(c) A commercial recycling program.

(2) Section 17-1-73 does not apply to any of the following;

(a) An ordinance that prohibits littering as described in Sections 97-15-29, 97-15-30 and 97-15-31.

(b) The use of auxiliary containers on property owned by a local unit of government.

HISTORY: Laws, 2018, ch. 388, § 3, eff from and after July 1, 2018.

CHAPTER 2.
BUILDING CODES

Sec.

Sec.
17-2-7. Farm structures exempt from provisions of this chapter.
17-2-9. Certain other buildings, facilities and manufactured housing exempt from provisions of this chapter.

§ 17-2-4. State Uniform Construction Code; exemptions.

(1) Except as provided in Section 17-2-1(1) and subsection (3) of this section, a county board of supervisors or municipal governing authority shall adopt and amend as minimum codes one (1) of the following as the State Uniform Construction Code:

(a) One (1) of the last three (3) adopted editions of the International Building Code (IBC) and any specific appendix or appendices as adopted and amended by the Mississippi Building Codes Council;

(b) One (1) of the last three (3) adopted editions of the International Residential Code (IRC), and any specific appendix or appendices as adopted and amended by the Mississippi Building Codes Council, with the exception of those provisions that require the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing one- or two-family dwelling;

(c) Other codes addressing matters such as electrical, plumbing, mechanical, fire and fuel gas, and any specific appendix or appendices as adopted and amended by the Mississippi Building Codes Council.

(2) In addition to the codes required under this section, subject to the provisions of subsection (3) of this section, a county or municipality may adopt construction codes that are not less stringent than the codes adopted in subsection (1) of this section.

(3) Within one hundred twenty (120) days after the provisions of this section go into effect, the board of supervisors of a county and/or the governing authorities of any municipality within a county, upon resolution duly adopted and entered upon its minutes, may choose not to be subject to the code requirements imposed under this section.

(4) These provisions do not apply to those buildings exempt from enforcement in Section 17-2-7 and Section 17-2-9.

(5) These provisions do not apply to manufactured homes or mobile homes as defined in Section 75-49-3.

HISTORY: Laws, 2014, ch. 382, § 1, eff from and after Aug. 1, 2014.

§ 17-2-7. Farm structures exempt from provisions of this chapter.

(1) For purposes of this section, "farm structure" means a structure that is constructed on a farm, other than a residence or a structure attached to it, for use on the farm, including, but not limited to, barns, sheds and poultry houses, but not public livestock areas. For purposes of this section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

(2) The governing body of a county or municipality shall not enforce that portion of any building code established and/or imposed under Sections 17-2-1 through 17-2-5 that regulates the construction or improvement of a farm structure.

(3) The provisions of this section do not apply unless, before constructing or improving a farm structure, the person owning the property on which the structure is to be constructed files an affidavit with the county or municipal official responsible for enforcing the building code stating that the structure is being constructed as a farm structure. The affidavit must include a statement of purpose or intended use of the proposed structure or addition.

(4) This section does not affect the authority of the governing body of a county or municipality to issue building permits before an affidavit for the construction or improvement of a farm structure is filed under subsection (3) of this section.

(5) The provisions of this section shall not apply to any floodplain management ordinances or regulations necessary for eligibility for the National Flood Insurance Program, and such floodplain management ordinances or regulations shall apply retroactively to any construction or improvement permit granted for any structure exempted under this section before May 22, 2012.

HISTORY: Laws, 2006, ch. 541, § 4; Laws, 2012, ch. 303, § 1; Laws, 2012, ch. 540, § 1; Laws, 2014, ch. 382, § 2, eff from and after Aug. 1, 2014.

Editor's Notes — Section 2 of Chapter 382, Laws of 2014, amended this section by inserting "and Section 1 of this act" following "Sections 17-2-1 through 17-2-5" in subsection (2). Section 1 of Chapter 382, Laws of 2014, was codified as Section 17-2-4. Since Section 17-2-4 is included in the span of sections referenced in "Sections 17-2-1 through 17-2-5," the "and Section 1 of this act" language has been deleted from the section as unnecessary at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

Amendment Notes — The 2014 amendment, in (2) inserted "and Section 1 of this act" preceding "that regulates the construction or improvement of a farm structure" (see Editor's note).

OPINIONS OF THE ATTORNEY GENERAL

Section 17-1-3 prohibits requiring the issuing of building permits and payment of building permit fees for farm buildings or other farm structures. Section 17-2-7 prohibits the enforcement of building codes, including the International Building Codes, on farm structures. However, such exemptions do not include farm residences. Cummings, Sept. 29, 2006, A.G. Op. 06-0436.

§ 17-2-9. Certain other buildings, facilities and manufactured housing exempt from provisions of this chapter.

(1) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 that regulates the construction or improvement of industrial facilities that are engaged in activities designated as manufac-

turing (sectors 31-33), utilities (sector 22), telecommunications (sector 517), bulk stations and materials (sector 422710), crude oil pipelines (sector 486110), refined petroleum products pipelines (sector 486910), natural gas pipelines (sector 486210), other pipelines (sector 486990) and natural gas processing plants (sector 211112), under the North American Industry Classification System (NAICS).

(2) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which regulates the construction or improvement of buildings located on nonpublic fairgrounds or the construction or improvement of buildings located on the Neshoba County Fairgrounds in Neshoba County, Mississippi.

(3) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which regulates the construction or improvement of a private unattached outdoor recreational structure, such as a hunting or fishing camp. In order for a structure to qualify as a "hunting camp" or "fishing camp" under the provisions of this subsection, the owner must file with the board of supervisors of the county in which the structure is located his signed affidavit stating under oath that the structure is a hunting camp or fishing camp, as the case may be, that he is the owner or an owner of the camp and that the camp is located in an unincorporated area of the county within, near or in close proximity to land upon which hunting or fishing activities legally may take place.

(4) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which regulates the construction or improvement of manufactured housing built according to the Federal Manufactured Home Construction and Safety Standards Act.

(5) The governing authority of Pearl River County or any municipality within such county shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which prohibits the use of or requires building permit approval for the use of salvage lumber or green cut timber in building construction provided such timber is for personal use and is not for sale.

(6) The provisions of this section shall not apply to any floodplain management ordinances or regulations necessary for eligibility for the National Flood Insurance Program, and such floodplain management ordinances or regulations shall apply retroactively to any construction or improvement permit granted for any structure exempted under this section before May 22, 2012.

HISTORY: Laws, 2006, ch. 541, § 5; Laws, 2007, ch. 524, § 3; Laws, 2012, ch. 303, § 2; Laws, 2012, ch. 540, § 2; Laws, 2014, ch. 382, § 3, eff from and after Aug. 1, 2014.

Editor's Notes — Section 2 of Chapter 382, Laws of 2014, amended this section by inserting "and Section 1 of this act" following "Sections 17-2-1 through 17-2-5" in

subsections (2) through (5). Section 1 of Chapter 382, Laws of 2014, was codified as Section 17-2-4. Since Section 17-2-4 is included in the span of sections referenced in "Sections 17-2-1 through 17-2-5," the "and Section 1 of this act" language has been deleted from the section as unnecessary at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

Amendment Notes — The 2014 amendment, in (1) through (5), inserted "and Section 1 of this act" following "Sections 17-2-1 through 17-2-5" (see Editor's note).

CHAPTER 3.

PROMOTION OF TRADE, CONVENTIONS AND TOURISM

CONVENTION BUREAUS

§ 17-3-29. Powers of convention bureaus.

JUDICIAL DECISIONS

ANALYSIS

1. Authority.
2. Discretionary function immunity.

1. Authority.

In the broadest possible sense, a convention bureau engages in an overarching discretionary function to promote tourism and convention business; however, the statute empowers, but does not require, the bureau to own, hold, improve, use and otherwise deal in real or personal property. Crider v. DeSoto Cnty. Convention, 201 So. 3d 1063, 2016 Miss. LEXIS 322 (Miss. 2016).

2. Discretionary function immunity.

Trial court properly granted a county convention and visitors bureau summary judgment in a visitor's action alleging that the bureau failed to maintain a civic center's grassy area in a safe condition because the bureau's operation of the civic center was a discretionary function to which immunity attached; by owning and using the civic center, the bureau engaged in a function the statute authorized but did not require. Crider v. DeSoto Cnty. Convention, 201 So. 3d 1063, 2016 Miss. LEXIS 322 (Miss. 2016).

CHAPTER 17.

SOLID WASTES DISPOSAL

SOLID WASTES DISPOSAL

Sec.

§ 17-17-5. Local governing bodies to provide for collection and disposal of garbage and rubbish; contracts; regulation of sanitary landfills; annexation.

(1) After December 31, 1992, the board of supervisors and/or municipal governing body shall provide for the collection and disposal of garbage and the disposal of rubbish. The board of supervisors and/or municipal governing body may provide such collection or disposal services by contract with private or other controlling agencies, and the service may include house-to-house service or the placement of regularly serviced and controlled bulk refuse receptacles within reasonable distance from the farthest affected household, and the wastes disposed of in a manner acceptable to the department and within the meaning of this chapter. The board of supervisors and/or municipal governing body may enter into contracts related in any manner to the collection and transportation of solid wastes for a term of up to six (6) years; however, for such contracts executed on or after July 1, 2019, the board of supervisors and/or municipal governing body may have the option to extend the contract by mutual consent of the parties in one-year increments up to four (4) additional years without advertising for proposals, as long as rate adjustments remain consistent with the existing contract and the total term of the contract does not exceed ten (10) years. The board of supervisors and/or municipal governing body may enter into contracts related in any manner to the generation and sale of energy generated from solid waste, and contracts for treatment, processing, distribution, recycling, elimination or disposal of solid wastes for a term of up to thirty (30) years. The municipal governing body of any municipality is authorized to regulate the disposal of garbage and rubbish in sanitary landfills, as provided in Section 21-19-1, Mississippi Code of 1972.

(2) In the event an unincorporated area which is annexed by a municipality is being provided collection and disposal of garbage and rubbish under contract with private or other controlling agencies, the municipality shall annex the area subject to the contract for the remainder of the term of the contract, but not to exceed five (5) years.

HISTORY: Laws, 1974, ch. 573, § 3(1); Laws, 1981, ch. 528, § 3; Laws, 1982, ch. 405, § 2; Laws, 1984, ch. 523; Laws, 1991, ch. 581, § 25; Laws, 1992, ch. 583 § 1; Laws, 2000, ch. 392, § 1, eff from and after July 1, 2000; Laws, 2019, ch. 360, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment rewrote and divided the former third sentence, which read: "The board of supervisors and/or municipal governing body shall have the power to and are hereby authorized to enter into contracts related in any manner to the collection and transportation of solid wastes for a term of up to six (6) years and to enter into contracts related in any manner to the generation and sale of energy generated from solid waste, and contracts for treatment, processing, distribution, recycling, elimination or disposal of solid wastes for a term of up to thirty (30) years" into the present third and fourth sentences.

JUDICIAL DECISIONS

1. Term of contract.

Solid waste collection contract was breached when it was terminated two years early because, although an extension agreement created an illegal six year and eight month contract under this section, a severability clause allowed for the final 8 months of the contract to be stricken. Home Base Litter Control, LLC v. Claiborne Cnty., 183 So. 3d 94, 2015 Miss. App. LEXIS 334 (Miss. Ct. App. 2015).

§ 17-17-63. Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund.

(1) There is created in the State Treasury a fund designated as the Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund for the purpose of providing funds for emergency, preventive or corrective actions which may be required or determined necessary by the department of any nonhazardous solid waste disposal facility that received, in whole or in part, household waste and closed before the effective date of Title 40 of the Code of Federal Regulations, Section 258.

(2) The trust fund shall be administered by the executive director. The commission shall promulgate rules and regulations for the administration of the fund and for a system of priorities for related projects eligible for funding. Only the facilities meeting the criteria in subsection (1) are eligible for funding.

(3) The commission may escalate, expend or utilize funds in the trust fund for the following purposes:

(a) To take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or substantial threat of a release of contaminants from any source within the permitted area of an eligible facility;

(b) To take preventive or corrective actions where the release of contaminants from any source within the permitted area of an eligible facility which presents an actual or potential threat to human health or the environment including, but not limited to, closure and post-closure care of an eligible facility;

(c) To take any actions as may be necessary to monitor and provide post-closure care of any eligible facility, including preventive and corrective actions, without regard to identity or solvency of the owner thereof; and

(d) To set aside ten percent (10%) annually to provide grants for regional recycling cooperatives formed by local governments for the purpose of jointly participating in the collection, processing and marketing of recyclables. The commission shall establish regulations regarding the eligibility and distribution of the regional recycling cooperative grants.

(4) The fund may not be used to pay for the normal costs of closure and post-closure care of an eligible facility or where no release or substantial threat of a release of contaminants has been found by the commission.

(5) Expenditures may be made from the fund upon requisition by the executive director.

(6) The fund shall be treated as a special trust fund. Interest earned on

the principal in the fund shall be credited by the department to the fund, unless funds allocated under Section 17-17-219(3)(a)(i) are being paid to the Local Governments Solid Waste Assistance Fund. If those funds are being paid to the Local Governments Solid Waste Assistance Fund, the department shall credit the earned interest to the Local Governments Solid Waste Assistance Fund.

(7) The fund may receive monies from any available public or private source including, but not limited to, collection of fees, interest, grants, taxes, public and private donations, petroleum violation escrow funds or refunds and appropriated funds.

(8) The department shall transfer any balance in the fund on July 1, 1997, in excess of Five Million Dollars ($5,000,000.00) to the Local Governments Solid Waste Assistance Fund.

HISTORY: Laws, 1992, ch. 583 § 19; Laws, 1994, ch. 619, § 1; Laws, 1997, ch. 596, § 2; Laws, 2009, ch. 383, § 1; Laws, 2014, ch. 348, § 1, eff from and after passage (approved Mar. 17, 2014).

Amendment Notes — The 2014 amendment deleted the last sentence in (3)(d), which read, "This paragraph (d) shall stand repealed on June 30, 2014."

NONHAZARDOUS SOLID WASTE PLANNING ACT OF 1991

Sec.

§ 17-17-227. County adoption of local nonhazardous solid waste management plan; contents; municipality participation; interlocal agreements; notice, ratification, review and implementation; alternative procedure for modifications; department to maintain copies; noncompliance with publication requirements.

(1) Each county, in cooperation with municipalities within the county, shall prepare, adopt and submit to the commission for review and approval a local nonhazardous solid waste management plan for the county. Each local nonhazardous solid waste management plan shall include, at a minimum, the following:

(a) An inventory of the sources, composition and quantities by weight or volume of municipal solid waste annually generated within the county, and

the source, composition and quantity by weight or volume of municipal solid waste currently transported into the county for management;

(b) An inventory of all existing facilities where municipal solid waste is currently being managed, including the environmental suitability and operational history of each facility, and the remaining available permitted capacity for each facility;

(c) An inventory of existing solid waste collection systems and transfer stations within the county. The inventory shall identify the entities engaging in municipal solid waste collection within the county;

(d) A strategy for achieving a twenty-five percent (25%) waste reduction goal through source reduction, recycling or other waste reduction technologies;

(e) A projection, using acceptable averaging methods, of municipal solid waste generated within the boundaries of the county over the next twenty (20) years;

(f) An identification of the additional municipal solid waste management facilities, including an evaluation of alternative management technologies, and the amount of additional capacity needed to manage the quantities projected in paragraph (e);

(g) An estimation of development, construction, operational, closure and post-closure costs, including a proposed method for financing those costs;

(h) A plan for meeting any projected capacity shortfall, including a schedule and methodology for attaining the required capacity;

(i) A determination of need by the county, municipality, authority or district that is submitting the plan, for any new or expanded facilities. A determination of need shall include, at a minimum, the following:

(i) Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account the quantities of municipal solid waste generated and the design capacities of existing facilities;

(ii) Certification that the proposed facility complies with local land use and zoning requirements, if any;

(iii) Demonstration, to the extent possible, that operation of the proposed facility will not negatively impact the waste reduction strategy of the county, municipality, authority or district that is submitting the plan;

(iv) Certification that the proposed service area of the proposed facility is consistent with the local nonhazardous solid waste management plan; and

(v) A description of the extent to which the proposed facility is needed to replace other facilities; and

(j) Any other information the commission may require.

(2) Each local nonhazardous solid waste management plan may include:

(a) The preferred site or alternative sites for the construction of any additional municipal solid waste management facilities needed to properly manage the quantities of municipal solid waste projected for the service

areas covered by the plan, including the factors which provided the basis for identifying the preferred or alternative sites; and

(b) The method of implementation of the plan with regard to the person who will apply for and acquire the permit for any planned additional facilities and the person who will own or operate any of the facilities.

(3) Each municipality shall cooperate with the county in planning for the management of municipal solid waste generated within its boundaries or the area served by that municipality. The governing authority of any municipality which does not desire to be included in the local nonhazardous solid waste management plan shall adopt a resolution stating its intent not to be included in the county plan. The resolution shall be provided to the board of supervisors and the commission. Any municipality resolving not to be included in a county waste plan shall prepare a local nonhazardous solid waste management plan in accordance with this section.

(4) The board of supervisors of any county may enter into interlocal agreements with one or more counties as provided by law to form a regional solid waste management authority or other district to provide for the management of municipal solid waste for all participating counties. For purposes of Section 17-17-221 through Section 17-17-227, a local nonhazardous solid waste management plan prepared, adopted, submitted and implemented by the regional solid waste management authority or other district is sufficient to satisfy the planning requirements for the counties and municipalities within the boundaries of the authority or district.

(5)(a) Upon completion of its local nonhazardous solid waste management plan, the board of supervisors of the county shall publish in at least one (1) newspaper as defined in Section 13-3-31, having general circulation within the county a public notice that describes the plan, specifies the location where it is available for review, and establishes a period of thirty (30) days for comments concerning the plan and a mechanism for submitting those comments. The board of supervisors shall also notify the board of supervisors of adjacent counties of the plan and shall make it available for review by the board of supervisors of each adjacent county. During the comment period, the board of supervisors of the county shall conduct at least one (1) public hearing concerning the plan. The board of supervisors of the county shall publish twice in at least one (1) newspaper as defined in Section 13-3-31, having general circulation within the county, a notice conspicuously displayed containing the time and place of the hearing and the location where the plan is available for review.

(b) After the public hearing, the board of supervisors of the county may modify the plan based upon the public's comments. Within ninety (90) days after the public hearing, each board of supervisors shall approve a local nonhazardous solid waste management plan by resolution.

(c) A regional solid waste management authority or other district shall declare the plan to be approved as the authority's or district's solid waste management plan upon written notification, including a copy of the resolution, that the board of supervisors of each county forming the authority or district has approved the plan.

(6) Upon ratification of the plan, the governing body of the county, authority or district shall submit it to the commission for review and approval in accordance with Section 17-17-225. The commission shall, by order, approve or disapprove the plan within one hundred eighty (180) days after its submission. The commission shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the governing body of the county, authority or district to submit, within one hundred twenty (120) days after issuance of the order, a revised plan that remedies those deficiencies. If the governing body of the county, authority or district, by resolution, requests an extension of the time for submission of a revised plan, the commission may, for good cause shown, grant one (1) extension for a period of not more than sixty (60) additional days.

(7) After approval of the plan or revised plan by the commission, the governing body of the county, authority or district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

(8) The governing body of the county, authority or district shall annually review implementation of the approved plan. The commission may require the governing body of each local government or authority to revise the local nonhazardous solid waste management plan as necessary, but not more than once every five (5) years.

(9) If the commission finds that the governing body of a county, authority or district has failed to submit a local nonhazardous solid waste management plan, obtain approval of its local nonhazardous solid waste management plan or materially fails to implement its local nonhazardous solid waste management plan, the commission shall issue an order in accordance with Section 17-17-29, to the governing body of the county, authority or district.

(10) The commission may, by regulation, adopt an alternative procedure to the procedure described in this section for the preparation, adoption, submission, review and approval of minor modifications of an approved local nonhazardous solid waste management plan. For purposes of this section, minor modifications may include administrative changes or the addition of any noncommercial nonhazardous solid waste management facility.

(11) The executive director of the department shall maintain a copy of all local nonhazardous solid waste management plans that the commission has approved and any orders issued by the commission.

(12) If a public notice required in subsection (5) was published in a newspaper as defined in Section 13-3-31, having general circulation within the county but was not published in a daily newspaper of general circulation as required by subsection (5) before April 20, 1993, the commission shall not disapprove the plan for failure to publish the notice in a daily newspaper. Any plan disapproved for that reason by the commission shall be deemed approved after remedying any other deficiencies in the plan.

(13) Notwithstanding any provision of this chapter, no solid waste management plan shall include a proposed new municipal solid waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill will be located within a five (5) mile radius of an

existing municipal solid waste landfill, unless a referendum election has been conducted and approved pursuant to Section 17-17-237. This subsection (13) shall not apply to the proposed expansion or replacement of any permitted landfill by the permit holder, and shall not apply to any rubbish disposal facilities, transfer stations, land application sites, composting facilities, solid waste processing facilities, chipping/mulching facilities, industrial/institutional/special waste landfills, industrial/institutional/special waste rubbish sites, waste tire processing facilities, commercial waste tire collection sites, local government waste tire collection sites or generator waste tire collection sites, and none of those facilities, stations, landfills or sites shall be counted as a landfill within a county for the purpose of determining whether a referendum election is required to be conducted in the county as provided in this section.

HISTORY: Laws, 1991, ch. 494, § 15; Laws, 1993, ch. 600, § 1; Laws, 1998, ch. 498, § 2; Laws, 2006, ch. 587, § 1, eff from and after July 1, 2006; Laws, 2021, ch. 308, § 1, eff from and after passage (approved March 10, 2021).

Amendment Notes — The 2021 amendment, effective March 10, 2021, added (13).

§ 17-17-229. Facility permits for nonhazardous solid waste management; application requirements and criteria.

(1) After approval of a local nonhazardous solid waste management plan by the commission, neither the department, the permit board nor any other agency of the State of Mississippi shall issue any permit, grant or loan for any nonhazardous solid waste management facility in a county, municipality region, or district which is not consistent with the approved local nonhazardous solid waste management plan.

(2) The commission shall adopt criteria to be considered in location and permitting of nonhazardous solid waste management facilities. The criteria shall be developed through public participation, shall be enforced by the permit board and shall include, in addition to all applicable state and federal rules and regulations, consideration of:

(a) Hydrological and geological factors, such as floodplains, depth to water table, soil composition, and permeability, cavernous bedrock, seismic activity, and slope;

(b) Natural resources factors, such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;

(c) Land use factors, such as local land use, whether residential, industrial, commercial, recreational, agricultural, proximity to public water supplies, and proximity to incompatible structures such as schools, churches and airports;

(d) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and

(e) Aesthetic factors, such as the visibility, appearance and noise level of the facility.

(3) Notwithstanding any provision of this chapter, no solid waste management plan shall include a proposed new municipal solid waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill will be located within a five (5) mile radius of an existing municipal solid waste landfill, unless a referendum election has been conducted and approved pursuant to Section 17-17-237. This subsection (3) shall not apply to the proposed expansion or replacement of any permitted landfill by the permit holder, and shall not apply to any rubbish disposal facilities, transfer stations, land application sites, composting facilities, solid waste processing facilities, chipping/mulching facilities, industrial/institutional/special waste landfills, industrial/institutional/special waste rubbish sites, waste tire processing facilities, commercial waste tire collection sites, local government waste tire collection sites or generator waste tire collection sites, and none of those facilities, stations, landfills or sites shall be counted as a landfill within a county for the purpose of determining whether a referendum election is required to be conducted in the county as provided in this section.

HISTORY: Laws, 1991, ch. 494, § 16; Laws, 1998, ch. 498, § 3; Laws, 2006, ch. 587, § 2, eff from and after July 1, 2006; Laws, 2021, ch. 308, § 2, eff from and after passage (approved March 10, 2021).

Amendment Notes — The 2021 amendment, effective March 10, 2021, added (3).

§ 17-17-237. Local referendum election to approve new municipal solid waste landfill; procedure.

(1) No new municipal solid waste landfill shall be incorporated into any solid waste management plan and no reference in any existing plan to any unpermitted new municipal solid waste landfill shall be effective, applicable or operative and no permit, grant or loan shall be approved for any new municipal solid waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill will be located within a five (5) mile radius of an existing municipal solid waste landfill, unless a local referendum election has been called and held in the county in which the new municipal solid waste landfill is proposed and with the results hereinafter provided. The board of supervisors may require the proponent of or applicant for the new municipal solid waste landfill to pay the costs of the election.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the new municipal solid waste landfill proposed to be sited within the county shall be eligible for consideration by the board of supervisors for inclusion in the solid waste management plan of the county. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days

from the date of the filing of said petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in said county or, if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(3) The election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used thereat shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR new municipal solid waste landfill in _____ County ( )", "I vote AGAINST new municipal solid waste landfill in _____ County ( )" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check mark(√) opposite the words of their choice.

(4) The election commissioners shall canvass and determine the results of the election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, sixty percent (60%) of the qualified electors participating therein shall vote in favor of the proposition, inclusion of the proposed new municipal solid waste landfill in a solid waste management plan and permitting of such landfill may be approved provided that all other requirements of law are satisfied as to the landfill. If, on the other hand, sixty percent (60%) of the qualified electors participating therein shall not vote in favor of the proposition, the new landfill may not be included in any solid waste management plan and shall not be permitted. In either case, no further election shall be held in a county under the provisions of this section for a period of two (2) years from the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided herein.

HISTORY: Laws, 2021, ch. 308, § 3, eff from and after passage (approved March 10, 2021).

DISPOSAL OF WASTE TIRES AND LEAD ACID BATTERIES; RIGHT-WAY-TO-THROW-AWAY PROGRAM

Sec.
17-17-403. Definitions.

§ 17-17-403. Definitions.

The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Commission" means the Commission on Environmental Quality.

(b) "Collection contractor" means a person approved by the department and used by a county, municipality or multicounty agency to operate a household hazardous waste collection and management program.

(c) "Department" means the Department of Environmental Quality.

(d) "Household hazardous waste" means any waste that would be considered hazardous under the Solid Wastes Disposal Law of 1974, Section 17-17-1 et seq., Mississippi Code of 1972, or any rules and regulations promulgated thereto, but for the fact that it is produced in quantities smaller than those regulated under that law or regulations and is generated by persons not otherwise covered by that law or regulations.

(e) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, farm equipment or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but does not include traction engines, road rollers, earth movers, graders, loaders and other similar construction equipment requiring oversized tires, any vehicles which run only upon a track, bicycles, electric bicycles or mopeds. For purposes of this article, "farm equipment" means any vehicle which uses tires having the following designations: I-1, I-2, I-3, R-1, R-2, R-3, F-1, F-2 and Farm Highway Service.

(f) "Small business" means any commercial establishment not regulated under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 USCS 6901 et seq.), as amended or regulations promulgated thereto.

(g) "Small quantity waste tire generator" means any private individual generating twenty-five (25) or fewer waste tires annually, or a tire retail outlet, automotive mechanic shop or other commercial or governmental entity that generates ten (10) or fewer waste tires per week.

(h) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(i) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(j) "Waste tire hauler" means any person engaged in the collection and/or transportation of fifty (50) or more waste tires for the purpose of storage, processing or disposal or any person transporting waste tires for compensation.

(k) "Waste tire processing facility" means a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery or disposal. The term includes mobile waste tire processing equipment. Commercial enterprises processing waste tires shall not be considered solid waste management facilities.

(*l*) "Waste tire collection site" means a site used for the storage of one hundred (100) or more waste tires.

HISTORY: Laws, 1991, ch. 531, § 2; Laws, 1993, ch. 500, § 1; Laws, 1997, ch. 544, § 1; Laws, 1998, ch. 349, § 1, eff from and after July 1, 1998; Laws, 2021, ch. 355, § 2, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment inserted "electric bicycles" in the first sentence of (e).

CHAPTER 21.

FINANCE AND TAXATION

ARTICLE 1.

EXEMPTIONS.

§ 17-21-5. Exemption from municipal ad valorem tax for certain structures in central business districts, historic preservation districts, business improvement districts, urban renewal districts, redevelopment districts, or on historic landmarks; application for exemption.

(1) The governing authorities of any municipality of this state may, in their discretion, exempt from any or all municipal ad valorem taxes, excluding ad valorem taxes for school district purposes, for a period of not more than seven (7) years, any privately owned new structures and any new renovations of and improvements to existing structures lying within a designated central business district or historic preservation district or on a historic landmark site, as determined by the municipality, but only in the event such structures shall have been constructed, renovated or improved pursuant to the requirements of an approved project of the municipality for the development of the central business district and/or the preservation and revitalization of historic landmark sites or historic preservation districts. The tax exemption authorized herein may be granted only after written application has been made to the governing authorities of the municipality by any person, firm or corporation claiming the exemption, and an order passed by the governing authorities of such municipality finding that the construction, renovation or improvement of said property is for the promotion of business, commerce or industry in the designated central business district or for the promotion of historic preservation.

(2) The governing authorities of any municipality of this state with a population of twenty thousand (20,000) or more according to the latest federal decennial census, may, in their discretion, exempt from any or all municipal ad valorem taxes, excluding ad valorem taxes for school district purposes, for a period of not more than seven (7) years, any privately owned new structures and any new renovations of and improvements to existing structures lying

within a designated business improvement district, urban renewal district or redevelopment district, as determined by the municipality, but only in the event such structures shall have been constructed, renovated or improved pursuant to the requirements of an approved project of the municipality for the development of the business improvement district, urban renewal district or redevelopment district. The tax exemption authorized herein may be granted only after written application has been made to the governing authorities of the municipality by any person, firm or corporation claiming the exemption, and an order passed by the governing authorities of such municipality finding that the construction, renovation or improvement of said property is for the promotion of business, commerce or industry in the designated business improvement district, urban renewal district or redevelopment district.

HISTORY: Laws, 1981, ch. 512, § 1; Laws, 1988, ch. 454; Laws, 1989, ch. 461, § 1; Laws, 1996, ch. 522, § 1, eff from and after July 1, 1996; Laws, 2018, ch. 436, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment substituted "twenty thousand (20,000)" for "twenty-five thousand (25,000)" in (2).

CHAPTER 23.

RURAL FIRE TRUCK ACQUISITION ASSISTANCE PROGRAMS

RURAL FIRE TRUCK ACQUISITION ASSISTANCE PROGRAM

Sec.

17-23-1. Establishment of Rural Fire Truck Acquisition Assistance Program; Rural Fire Truck Fund; eligibility of counties and municipalities for funds; applications for and expenditure of funds; duties of Department of Insurance with respect to program.

§ 17-23-1. Establishment of Rural Fire Truck Acquisition Assistance Program; Rural Fire Truck Fund; eligibility of counties and municipalities for funds; applications for and expenditure of funds; duties of Department of Insurance with respect to program.

(1) There is established the Rural Fire Truck Acquisition Assistance Program to be administered by the Department of Insurance for the purpose of assisting counties and municipalities in the acquisition of fire trucks.

(2) There is created in the State Treasury a special fund to be designated as the "Rural Fire Truck Fund." The Legislature may appropriate that amount necessary to fulfill the obligations created under this section by the Depart-

ment of Insurance, from the State General Fund to such special fund, which sum shall be added to the remainder of the money transferred on July 1, 1995, and during the 1996 Regular Session to the Rural Fire Truck Fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Unobligated amounts remaining in the Rural Fire Truck Fund, Fund No. 3507, or in any fund created for funds appropriated or otherwise made available for this program, may be used as matching funds by any county with remaining eligibility as provided herein. It is the intent of the Legislature that the Department of Insurance continue to accept applications from the counties for fire trucks as provided in subsection (3) of this section.

(3)(a) A county that meets the requirements provided herein may receive an amount not to exceed Nine Hundred Twenty Thousand Dollars ($920,000.00) as provided in subparagraphs (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii) and (xiv) of this paragraph, and such amount shall be divided as follows: an amount of not more than Fifty Thousand Dollars ($50,000.00) per fire truck for the first six (6) trucks and not more than Seventy Thousand Dollars ($70,000.00) per fire truck for the seventh, eighth, ninth, tenth and eleventh trucks, and not more than Ninety Thousand Dollars ($90,000.00) per fire truck for the twelfth, thirteenth and fourteenth truck. Monies distributed under this chapter shall be expended only for the purchase of new fire trucks and such trucks must meet the National Fire Protection Association (NFPA) standards in the 1900 series.

(i) Any county that has not applied for a fire truck under this section is eligible to submit applications for fourteen (14) fire trucks as follows: six (6) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of Nine Hundred Twenty Thousand Dollars ($920,000.00).

(ii) Any county that has received one (1) fire truck under this section is eligible to submit applications for thirteen (13) fire trucks as follows: five (5) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of Eight Hundred Seventy Thousand Dollars ($870,000.00).

(iii) Any county that has received two (2) fire trucks under this section is eligible to submit an application for twelve (12) fire trucks as follows: four (4) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Eight Hundred Twenty Thousand Dollars ($820,000.00).

(iv) Any county that has received three (3) fire trucks under this section is eligible to submit an application for eleven (11) fire trucks as

follows: three (3) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Seven Hundred Seventy Thousand Dollars ($770,000.00).

(v) Any county that has received four (4) fire trucks under this section is eligible to submit an application for ten (10) fire trucks as follows: two (2) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Seven Hundred Twenty Thousand Dollars ($720,000.00).

(vi) Any county that has received five (5) fire trucks under this section is eligible to submit an application for nine (9) fire trucks as follows: one (1) fire truck at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Six Hundred Seventy Thousand Dollars ($670,000.00).

(vii) Any county that has received six (6) fire trucks under this section is eligible to submit an application for eight (8) fire trucks as follows: five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Six Hundred Twenty Thousand Dollars ($620,000.00).

(viii) Any county that has received seven (7) fire trucks under this section is eligible to submit an application for seven (7) fire trucks as follows: four (4) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Five Hundred Fifty Thousand Dollars ($550,000.00).

(ix) Any county that has received eight (8) fire trucks under this section is eligible to submit an application for six (6) fire trucks as follows: three (3) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Four Hundred Eighty Thousand Dollars ($480,000.00).

(x) Any county that has received nine (9) fire trucks under this section is eligible to submit an application for five (5) fire trucks as follows: two (2) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Four Hundred Ten Thousand Dollars ($410,000.00).

(xi) Any county that has received ten (10) fire trucks under this section is eligible to submit an application for four (4) fire trucks as follows: one (1) fire truck at not more than Seventy Thousand Dollars

($70,000.00) per truck, and three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Three Hundred Forty Thousand Dollars ($340,000.00).

(xii) Any county that has received eleven (11) fire trucks under this section is eligible to submit an application for three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck.

(xiii) Any county may apply for three (3) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck as provided in subparagraph (xii), provided that the county agrees to forego any previous fire truck under subparagraphs (i) through (xi) for which the county has not previously applied, and that the county has received approval from the Rural Fire Truck Acquisition Assistance Program Committee to apply for and receive a truck under subparagraph (xii).

(b) The board of supervisors of the county shall submit its request for the receipt of monies to the Department of Insurance. A committee composed of the Commissioner of Insurance, the State Fire Coordinator, the Director of the Rating Bureau and the Director of the State Fire Academy shall review the requests by the boards of supervisors and shall determine whether the county or municipality for which the board of supervisors has requested a truck meets the requirements of eligibility under this chapter.

(c) To be eligible to receive monies under this chapter:

(i) A county or municipality must pledge to set aside or dedicate each year as matching funds, for a period not to extend over ten (10) years, local funds in an amount equal to or not less than one-tenth (1/10) of the amount of monies for which it is requesting distribution from the Rural Fire Truck Fund, which pledged monies may be derived from local ad valorem tax authorized by law or from any other funds available to the county or municipality, except for those funds received by municipalities or counties from the Municipal Fire Protection Fund or the County Volunteer Fire Department Fund, as defined in Sections 83-1-37 and 83-1-39.

(ii) A municipality must provide adequate documentation of its contract with the county that requires the municipality to provide fire protection in rural areas. The term "rural areas" means any area within the county located outside the boundaries of an incorporated municipality or any incorporated municipality with a population of two thousand five hundred (2,500) or less.

(d) The Department of Insurance shall maintain an accurate record of all monies distributed to counties and municipalities and the number of fire trucks purchased and the cost for each fire truck, such records to be kept separate from other records of the Department of Insurance; notify counties and municipalities of the Rural Fire Truck Acquisition Assistance Program and the requirements for them to become eligible to participate; adopt and promulgate such rules and regulations as may be necessary and desirable to implement the provisions of this chapter; and file with the Legislature a report detailing how monies made available under this chapter were

distributed and spent during the preceding portion of the fiscal year in each county and municipality, the number of fire trucks purchased, the counties and municipalities making such purchases, and the cost of each fire truck purchased.

HISTORY: Laws, 1995, ch. 536, § 1; Laws, 1997, ch. 555, § 1; Laws, 1999, ch. 550, § 1; Laws, 2001, ch. 463, § 1; Laws, 2004, ch. 421, § 1; Laws, 2006, ch. 399, § 1; Laws, 2009, ch. 430, § 1; Laws, 2010, ch. 452, § 1; Laws, 2011, ch. 419, § 1, eff from and after July 1, 2011; Laws, 2018, ch. 459, § 2, eff from and after July 1, 2018; Laws, 2019, ch. 450, § 14, eff from and after July 1, 2019; Laws, 2021, ch. 453, § 1, eff from and after July 1, 2021.

Editor's Notes — Laws of 2015, ch. 471, § 5, provides:

"SECTION 5. The State Fiscal Officer shall transfer the sum of Three Million Dollars ($3,000,000.00) from the Mississippi Surplus Lines Association to the Mississippi Department of Insurance Rural Fire Truck Acquisition Fund and/or the Supplemental Rural Fire Truck Fund. The Mississippi Department of Insurance shall notify the State Fiscal Officer which of those two (2) fund(s) that the Three Million Dollars ($3,000,000.00) shall be transferred to."

Amendment Notes — The 2018 amendment deleted "or in Fund No. 3508, or in Fund No. 3504" following "Fund No. 3507" in (2); in (3)(a), substituted "Seven Hundred Forty Thousand Dollars ($740,000.00)" for "Six Hundred Fifty Thousand Dollars ($650,000.00)," added "and (xii)" and made a related change, and added "and not more...for the twelfth truck"; rewrote (3)(a)(i) through (vii) by increasing by one the number of fire trucks counties that had received various numbers of fire trucks under the section could apply for, inserting "and one (1) fire truck...($90,000.00)" and increasing the total dollar amount of the trucks counties could apply for; rewrote (3)(a)(viii) through (x) by increasing by one the number of fire trucks counties that had received various numbers of fire trucks under the section could apply for and substituting "as follows: four (4)...($370,000.00)" for "at not more than Two Hundred Eighty Thousand Dollars ($280,000.00)" in (viii), "as follows: three (3)...($300,000.00)" for "at not more than Two Hundred Ten Thousand Dollars ($210,000.00)" in (ix), and "as follows: two (2)...($230,000.00)" for "at not more than One Hundred Forty Thousand Dollars ($140,000.00)" in (x); in (3)(a)(xi), substituted "two (2)" for "one (1)," and inserted "as follows: one (1) fire truck" and adding "per truck...($160,000.00)"; and added (3)(a)(xii) and (xiii).

The 2019 amendment, in the introductory paragraph of (3)(a), substituted "Eight Hundred Thirty Thousand Dollars ($830,000.00)" for "Seven Hundred Forty Thousand Dollars ($740,000.00)," inserted "and (xiii)" and made a related change, and inserted "and thirteenth"; in (3)(a)(i), substituted "thirteen (13) fire trucks" for "twelve (12) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Eight Hundred Thirty Thousand Dollars ($830,000.00)" for "Seven Hundred Forty Thousand Dollars ($740,000.00)," and inserted "per truck"; in (3)(a)(ii), substituted "twelve (12) fire trucks" for "eleven (11) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Seven Hundred Eighty Thousand Dollars ($780,000.00)" for "Six Hundred Ninety Thousand Dollars ($690,000.00)," and inserted "per truck"; in (3)(a)(iii), substituted "eleven (11) fire trucks" for "ten (10) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Seven Hundred Thirty Thousand Dollars ($730,000.00)" for "Six Hundred Forty Thousand Dollars ($640,000.00)," and inserted "per truck"; in (3)(a)(iv), substituted "ten (10) fire trucks" for "nine (9) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Six Hundred Eighty Thousand Dollars ($680,000.00)" for "Five Hundred Ninety Thousand Dollars ($590,000.00)," and inserted "per truck"; in (3)(a)(v), substituted "nine (9) fire trucks" for "eight (8) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Six Hundred Thirty Thousand Dollars ($630,000.00)" for "Five Hundred Forty Thousand Dollars ($540,000.00)," and inserted "per truck"; in (3)(a)(vi), substi-

tuted "eight (8) fire trucks" for "seven (7) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Five Hundred Eighty Thousand Dollars ($580,000.00)" for "Four Hundred Ninety Thousand Dollars ($490,000.00)," and inserted "per truck"; in (3)(a)(vii), substituted "seven (7) fire trucks" for "six (6) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Five Hundred Thirty Thousand Dollars ($530,000.00)" for "Four Hundred Forty Thousand Dollars ($440,000.00)," and inserted "per truck"; in (3)(a)(viii), substituted "six (6) fire trucks" for "five (5) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Four Hundred Sixty Thousand Dollars ($460,000.00)" for "Three Hundred Seventy Thousand Dollars ($370,000.00)," and inserted "per truck"; in (3)(a)(ix), substituted "five (5) fire trucks" for "four (4) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Three Hundred Ninety Thousand Dollars ($390,000.00)" for "Three Hundred Thousand Dollars ($300,000.00)," and inserted "per truck"; in (3)(a)(x), substituted "four (4) fire trucks" for "three (3) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Three Hundred Twenty Thousand Dollars ($320,000.00)" for "Two Hundred Thirty Thousand Dollars ($230,000.00)," and inserted "per truck"; in (3)(a)(xi), substituted "three (3) fire trucks," for "two (2) fire trucks," "two (2) fire trucks" for "one (1) fire truck" and "Two Hundred Fifty Thousand Dollars ($250,000.00)" for "One Hundred Sixty Thousand Dollars ($160,000.00)," and inserted "per truck"; in (3)(a)(xii), substituted "two (2) fire trucks" for "one (1) fire truck," and added "per truck"; in (3)(a)(xiii), substituted "two (2) fire trucks" for "one (1) fire truck," and inserted "per truck" and "under subparagraphs (i) through (xi)."

The 2021 amendment, in (3)(a), substituted "Nine Hundred Twenty Thousand Dollars ($920,000.00)" for "Eight Hundred Thirty Thousand Dollars ($830,000.00)," inserted "and (xiv)" and made a related change, and inserted "and fourteenth" and made a related change; in (3)(a)(i), substituted "fourteen (14)" for "thirteen (13)," "three (3)" for "two (2)," and "Nine Hundred Twenty Thousand Dollars ($920,000.00)" for "Eight Hundred Thirty Thousand Dollars ($830,000.00)"; in (3)(a)(ii), substituted "thirteen (13)" for "twelve (12)," "three (3)" for "two (2)," and "Eight Hundred Seventy Thousand Dollars ($870,000.00)" for "Seven Hundred Eighty Thousand Dollars ($780,000.00)"; in (3)(a)(iii), substituted "twelve (12)" for "eleven (11)," "three (3)" for "two (2)," and "Eight Hundred Twenty Thousand Dollars ($820,000.00)" for "Seven Hundred Thirty Thousand Dollars ($730,000.00)"; in (3)(a)(iv), substituted "eleven (11)" for "ten (10)," "three (3)" for "two (2)," and " Seven Hundred Seventy Thousand Dollars ($770,000.00)" for "Six Hundred Eighty Thousand Dollars ($680,000.00)"; in (3)(a)(v), substituted "ten (10)" for "nine (9)," "three (3)" for "two (2)," and "Seven Hundred Twenty Thousand Dollars ($720,000.00)" for Six Hundred Thirty Thousand Dollars ($630,000.00); in (3)(a)(vi), substituted "nine (9)" for "eight (8)," "three (3)" for "two (2)," and "Six Hundred Seventy Thousand Dollars ($670,000.00)" for Five Hundred Eighty Thousand Dollars ($580,000.00); in (3)(a)(vii), substituted "eight (8)" for "seven (7)," "three (3)" for "two (2)," and "Six Hundred Twenty Thousand Dollars ($620,000.00)" for "Five Hundred Thirty Thousand Dollars ($530,000.00)"; in (3)(a)(viii), substituted "seven (7)" for "six (6)," "three (3)" for "two (2)," and "Five Hundred Fifty Thousand Dollars ($550,000.00)" for "Four Hundred Sixty Thousand Dollars ($460,000.00)"; in (3)(a)(ix), substituted "six (6)" for "five (5)," "three (3)" for "two (2)," and "Four Hundred Eighty Thousand Dollars ($480,000.00)" for "Three Hundred Ninety Thousand Dollars ($390,000.00)"; in (3)(a)(x), substituted "five (5)" for "four (4)," "three (3)" for "two (2)," and "Four Hundred Ten Thousand Dollars ($410,000.00)" for "Three Hundred Twenty Thousand Dollars ($320,000.00)"; in (3)(a)(xi), substituted "four (4)" for "three (3)," "three (3)" for "two (2)," and " Three Hundred Forty Thousand Dollars ($340,000.00)" for "Two Hundred Fifty Thousand Dollars ($250,000.00)"; and in (3)(a)(xii) and (3)(a)(xiii), substituted "three (3)" for "two (2)."

SUPPLEMENTARY RURAL FIRE TRUCK ACQUISITION ASSISTANCE PROGRAM

§ 17-23-11. Establishment of supplementary rural fire truck acquisition assistance program; Supplementary Rural Fire Truck Fund; eligibility of counties and municipalities for funds; applications for and expenditure of funds; duties of Department of Insurance with respect to program.

Editor's Notes — Laws of 2015, ch. 471, § 5, provides:

"SECTION 5. The State Fiscal Officer shall transfer the sum of Three Million Dollars ($3,000,000.00) from the Mississippi Surplus Lines Association to the Mississippi Department of Insurance Rural Fire Truck Acquisition Fund and/or the Supplemental Rural Fire Truck Fund. The Mississippi Department of Insurance shall notify the State Fiscal Officer which of those two (2) fund(s) that the Three Million Dollars ($3,000,000.00) shall be transferred to."

CHAPTER 25.

GENERAL PROVISIONS RELATING TO COUNTIES AND MUNICIPALITIES

Sec.

§ 17-25-1. County boards of supervisors and municipal governing authorities authorized to allow payment of taxes, fees and other accounts receivable and payment for retail merchandise sold by county or municipality by credit card, charge card, debit card, etc.

The board of supervisors of any county and the governing authorities of any municipality may allow the payment of various taxes, fees and other accounts receivable to the county or municipality, and the payment for retail merchandise sold by the county or municipality, by credit cards, charge cards, debit cards and other forms of electronic payment, in accordance with policies established by the State Auditor. Except as otherwise provided in this section, any fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment, so that the user will pay the full cost of using the electronic payment. However, a county or municipality shall not charge the user any additional amount above the processing fee on each transaction. For purposes of this section, the term "accounts receivable" includes, but is not limited to, judgments, fines, costs and penalties imposed upon conviction for criminal and traffic offenses. A county or municipality may bear the full cost of processing such electronic payments for retail merchandise sold by the county or municipality.

HISTORY: Laws, 2001, ch. 511, § 2; Laws, 2013, ch. 344, § 1; Laws, 2013, ch. 441, § 1; Laws, 2014, ch. 371, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 1 of Chapter 441, Laws of 2013, effective from and after passage (approved March 25, 2013), amended this section. Section 1 of Chapter 344, Laws of 2013, effective July 1, 2013 (approved March 18, 2013) also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the August 1, 2013, meeting of the Committee.

Amendment Notes — The first 2013 amendment (ch. 344) added the last three sentences.

The second 2013 amendment (ch. 441) added "and the payment for retail merchandise sold by the county or municipality," in the first sentence; and added the third sentence.

The 2014 amendment transferred the former third sentence to be the present last sentence; and deleted the former last sentence, which read, "This section shall stand repealed on July 1, 2014."

§ 17-25-11. County boards of supervisors and municipal governing authorities authorized to allow off-duty law enforcement officers to use public uniforms, weapons, and official vehicles in performance of certain private security duties.

(1) Certified law enforcement officers or certified part-time law enforcement officers, as defined in Section 45-6-3, who are employed by a county or municipality may wear the official uniform and may utilize the official firearm and the official vehicle issued by the employing jurisdiction while in the performance of private security services in off-duty hours. The governing authority of a municipality must approve of such use of the uniform, official weapon and vehicle by municipal law enforcement officers by act spread upon the minutes of such board and approved by the chief executive. The sheriff of a county must approve such use of the uniform, official weapon and vehicle by deputy sheriffs. Approval shall be on an employee-by-employee basis and not by general order. Any proceedings regarding application or approval and the minutes regarding same shall be a public record.

(2) Each governing board and chief executive or sheriff shall determine before the use of the official uniform, weapon and vehicle is approved that the proposed employment is not likely to bring disrepute to the employing jurisdiction or its law enforcement agency, the officer at issue, or law enforcement generally, and that the use of the official uniform, weapon and vehicle in the discharge of the officer's private security endeavor promotes the public interest.

(3)(a) Acts and omissions of an officer in discharge of private security employment shall be deemed to be the acts and omissions of the person or entity who hires or enters into any independent contractual service agreement with an officer for the private security services, and not the acts and omissions of the employing jurisdiction whose uniform, weapon and vehicle are approved for the private security use.

(b) The person or entity, and the person's or entity's insurer, who hires or enters into any independent contractual service agreement with an officer for private security services shall:

(i) Hold harmless the employing jurisdiction and fully indemnify the employing jurisdiction for any expense or loss, including attorney's fees and any damage to the official vehicle, which results from any action taken against the employing jurisdiction arising out of the acts or omissions of the officer in discharge of private security services while wearing the official uniform or using the official weapon or vehicle; and

(ii) Name the employing jurisdiction as a named insured on its general liability and automobile liability policies for at least the amount of recovery provided for in Section 11-46-15 for any damage to the official vehicle.

(c) If the person or entity, and the person's or entity's insurer, fails or refuses to endorse, indemnify and hold harmless the employing jurisdiction,

the employing jurisdiction shall not approve the use of the official vehicle of the employing jurisdiction for private security services.

(d) Neither the state nor any subdivision thereof shall be liable for a claim or injury arising from the acts or omissions of an officer in the discharge of any private security employment duties under this section, including travel to and from private security employment duties in the official vehicle.

(4) Certified police officers performing private jobs during their off-duty hours are required to notify the appropriate law enforcement agency of the place of employment, the hours to be worked, and the type of employment.

(5) The official uniform, weapon and vehicle may be worn and utilized only at locations which are within the jurisdiction of the governmental entity whose uniform, weapon and vehicle are involved.

HISTORY: Laws, 2006, ch. 568, § 1, eff from and after passage (approved Apr. 24, 2006.); Laws, 2021, ch. 473, § 1, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment, inserted "and the official vehicle" or "and vehicle," and made related changes, everywhere it appears in (1), (2) and (5); and in (3), designated the former first sentence as (a), and therein substituted "entity who hires of enters into any independent contractual service agreement with an officer" for "entity employing the officer," inserted "employing," inserted "and vehicle" and made related changes, and made minor stylistic changes, divided the former second sentence into (b) and (b)(i), and in (b), deleted "An employer employing" from the beginning, and inserted "person or entity…service agreement with an," in (i), substituted "the employing jurisdiction and fully indemnify the employing jurisdiction" for "the jurisdiction by which the officer is employed and fully indemnify the jurisdiction," inserted "employing" the third time it appears, and added "or vehicle; and" at the end, added (b)(ii) and (c), and rewrote the former last sentence, which read: "Neither the state nor any subdivision thereof shall be liable for acts or omissions of an officer in the discharge of the private security employment duties" and designated it (d).

JUDICIAL DECISIONS

1. In general.

Defendant was properly convicted of simple assault of a law-enforcement officer because defendant fired his gun at an off-duty deputy, who was acting as a security guard at a restaurant, after being asked to leave the restaurant, defendant clearly was aware that the deputy was a police officer, the deputy was acting within the scope of his duty as a law-enforcement officer when defendant assaulted him, and the deputy was statutorily permitted to wear his official uniform while in the performance of private security services. Bates v. State, 172 So. 3d 695, 2015 Miss. LEXIS 434 (Miss. 2015).

§ 17-25-15. Prohibition against enactment of certain new ordinances affecting existing qualified sport-shooting ranges; criteria for qualifying for ordinance exemptions.

(1) An established sport-shooting range that is not in violation of a state law or an ordinance of a unit of local government prior to the enactment of a new ordinance of a unit of local government affecting the range may continue

in operation even if, at or after the time of the enactment of the new ordinance, the operation of the sport-shooting range is not in compliance with the new ordinance.

In order to qualify for the provisions of this subsection, an established outdoor shooting range must be:

(a) Constructed in a manner not reasonably expected to allow a projectile to cross the boundary of the tract; or

(b) Located on a tract of land of ten (10) acres or more and with any firing line more than one hundred fifty (150) feet from a residence or occupied building located on another property if a shotgun, air rifle or air pistol, BB gun or bow and arrow is discharged; or

(c) Located on a tract of land of fifty (50) acres or more and with any firing line more than three hundred (300) feet from a residence or occupied building located on another property if a center fire or rimfire rifle or pistol or a muzzle-loading rifle or pistol of any caliber is discharged.

(2) No new ordinance of a local unit of government shall prohibit an established sport-shooting range that is in existence on July 1, 2016, from doing any of the following within the existing geographic boundaries of the sport-shooting range:

(a) Repair, remodel or reinforce any building or improvement as may be necessary in the interest of public safety or to secure the continued use of the building or improvement;

(b) Reconstruct, repair, rebuild or resume the use of a facility or building damaged or destroyed, in whole or in part, by fire, collapse, explosion, act of nature or act of war occurring after March 31, 2008;

(c) Expand or enhance its membership or opportunities for public participation;

(d) Expand or increase facilities or activities.

(3) The right to operate as a sport-shooting range shall not be amended, restricted, or terminated due to a change of circumstances regarding the use of adjacent or surrounding properties to the extent that any sport-shooting range has been issued permission to operate as a sport-shooting range, whether as of right or by special exception, variance, or otherwise, by any entity having zoning or zoning appeal authority.

(4) A person who subsequently acquires title to or leases or otherwise uses or exercises control over real property adversely affected by the normal operation or use of property with an established sport-shooting range shall not maintain a nuisance action against the range or the person who owns, leases or otherwise uses or exercises control over the range to restrain, enjoin or impede the use of the range.

HISTORY: Laws, 2008, ch. 385, § 1; Laws, 2016, ch. 409, § 1, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment inserted "with any firing line" in (1)(a) and (b); in (2), substituted "July 1, 2016" for "March 31, 2008" in the introductory paragraph, inserted "or destroyed, in whole or in part" in (b), and deleted "Reasonably"

from the beginning of (d); added (3); redesignated and rewrote former (3) as (4), which read: "A person who subsequently acquires title to real property affected by the use of property with an established sport shooting range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin or impede the use of the range where there has not been a substantial change in the hours of operation of the range, the types of firearms used at the range, or the number of persons using the range"; and made minor stylistic changes throughout.

§ 17-25-25. Uniform requirements for disposal of personal property belonging to county or municipality.

(1) **General.** The governing authority of a county or municipality may sell or dispose of any personal property or real property belonging to the governing authority when the property has ceased to be used for public purposes or when, in the authority's judgment, a sale thereof would promote the best interest of the governing authority. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

(2) **Public sale.** At least ten (10) days before bid opening, the governing authority shall advertise its acceptance of bids by posting notices at three (3) public places located in the county or municipality that the governing authority serves. One (1) of the three (3) notices shall be posted at the governing authority's main office. The governing authority may designate the manner by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids made electronically or bids made by any other method that promotes open competition. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(3) **Private sale.** Where the personal property does not exceed One Thousand Dollars ($1,000.00) in value, the governing authority, by a unanimous approval of its members, may sell or dispose of the property at a private sale. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(4) **Public auction.** The governing authority of a county or municipality may sell or dispose of any surplus personal or real property at a public auction that shall be conducted by an auctioneer or auction company that meets the standards established by the State Department of Audit and is hired by the governing authority of a county or municipality.

(5) If the governing authority finds that the fair market value of the personal property or real property is zero and this finding is entered on the minutes of the authority, then the governing authority may dispose of such property in the manner it deems appropriate and in its best interest, but no official or employee of the governing authority shall derive any personal economic benefit from such disposal.

(6) If the property may be of use or benefit to any federal agency or authority, another governing authority or state agency of the State of Mississippi, or a state agency or governing authority of another state, it may be disposed of in accordance with Section 31-7-13(m)(vi).

(7) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3 or under Section 37-7-551. The provisions of this section shall not apply to any equipment disposed of pursuant to trade-in as part of a purchase.

HISTORY: Laws, 2012, ch. 499, § 1; Laws, 2013, ch. 364, § 1; Laws, 2015, ch. 339, § 3, eff from and after July 1, 2015.

Amendment Notes — The 2013 amendment, in (1), inserted "or real property" in the first sentence and added the last sentence; added (4) and redesignated the remaining subsections accordingly; in (5), inserted "or real property" and substituted "such property" for "the personal property"; in (6), deleted "personal" preceding "property"; and made a minor stylistic change in (2).

The 2015 amendment, in (7), added "or under Section 37-7-551," and added the last sentence.

§ 17-25-29. Rights of members of member-owned water association or system to attend meetings; notice.

In addition to the rights prescribed in Section 79-11-177, a member of a member-owned rural water association or system, incorporated under Chapter 11, Title 79, Mississippi Code of 1972, shall have the right to attend regularly scheduled board meetings of the association or system. Further, if a meeting pertains to the election of board members for the association or system, then the association or system shall provide written notice of the meeting by mail at least fifteen (15) days in advance of the meeting at which the election will occur. The written notice shall also be included on any association's or system's invoice or statement that is submitted to the member within thirty (30) days of the meeting.

HISTORY: Laws, 2013, ch. 526, § 2, eff from and after July 1, 2013.

§ 17-25-31. Sale of badge and helmet to retiring firefighter or spouse of firefighter killed in line of duty authorized.

Upon approval of the governing authority of the municipality or county, a member of any municipal or county fire protection department who retires or the spouse of a fireman who is killed in the line of duty may be allowed to purchase the helmet and badge that were issued to the fireman by the fire protection department from which he or she retired or by whom he or she was employed at the time of death. The governing authority of the municipality or county shall determine the amount to be paid for the helmet and badge by the retiring fireman or the spouse of the fireman. The governing authority of the municipality or county may approve such a sale for a helmet and badge issued to a volunteer fireman if the equipment was originally purchased using municipal or county funds.

HISTORY: Laws, 2014, ch. 330, § 1, eff from and after July 1, 2014.

§ 17-25-33. Prohibition against law, rule, ordinance, etc. interfering with employer's ability to be informed about employee or potential employee background.

(1) No county, board of supervisors of a county, municipality, governing authority of a municipality or any other political subdivision shall adopt or maintain in effect any law, ordinance, or rule that creates requirements, regulations, processes or prohibitions that in any way interfere with an employer's ability to become fully informed about the background of an employee or potential employee for the purpose of creating or maintaining a fair, secure, safe and productive workplace. Any ordinance or regulation that exists as of July 1, 2014, or is created after July 1, 2014, that violates the provisions of this section shall be explicitly preempted and voided by this section.

(2) The Legislature recognizes that fair, secure and safe workplaces are critical to high employer and employee productivity and increased employer and employee productivity improve the economic health of our state. Because the employer is in the best position to understand the fairness, security and safety needs of his or her workplace, any law or ordinance that hinders an employer's ability to meet the demands of such needs by limiting the ability of an employer to become informed about the background of an employee or potential employee, shall be declared unfair and against the laws and policies of this state.

HISTORY: Laws, 2014, ch. 340, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (1) by substituting "interfere with an employer's ability" for "interfere with an employers' ability." The Joint Committee ratified the correction at its July 24, 2014, meeting.

§ 17-25-34. All Fuels Act of 2021; prohibition against law, rule, ordinance, etc. prohibiting expansion, utilization, connection or reconnection of service based on type or source of energy to individual customer.

(1) No political subdivision of this state may adopt an ordinance, resolution, regulation, code or policy that prohibits, or has the effect of prohibiting the expansion, utilization, connection or reconnection of a service based upon the type or source of energy to be delivered to an individual customer.

(2) For purposes of this section, the term "political subdivision" shall have the same meaning as provided under Section 11-46-1.

HISTORY: Laws, 2021, ch. 345, § 2, eff from and after passage (approved March 17, 2021).

Editor's Note — Laws of 2021, ch. 345, § 1, effective March 17, 2021, provides: "SECTION 1. This section may be known and cited as the 'All 6 Fuels Act of 2021.'"

§ 17-25-35. Continued payment of compensation and related benefits of county or municipality employees who protect public interest and are injured in the line of duty.

The governing authority of any municipality and the board of supervisors of any county may, in its discretion, adopt a policy to continue to pay all or a portion of the regular compensation and related benefits of any law enforcement officer, firefighter or other employee that protects the public interest of the municipality or county who is injured in the line of duty, during the time that the injured employee is physically unable to perform the duties of his or her employment, in accordance with the following:

(a) The municipality or county may continue to pay all or a portion of the injured employee's regular compensation and related benefits until such time as the employee is physically able to perform the duties of his or her employment, or the employee retires on a disability retirement allowance, whichever occurs first.

(b) The maximum portion of the injured employee's regular compensation that the municipality or county may continue to pay is the difference between the total amount that the injured employee is receiving from workers' compensation benefits and disability benefits from the trust fund created under Section 45-2-21 and the amount of the employee's regular compensation.

(c) At such time as the injured employee is no longer receiving any workers' compensation benefits or disability benefits from the trust fund created under Section 45-2-21, the municipality or county may continue to pay the full amount of the employee's regular compensation for such period of time as allowed under the policy.

HISTORY: Laws, 2014, ch. 495, § 4, eff from and after July 1, 2014.

Editor's Notes — Laws of 2014, ch. 495, § 1 provides:

"SECTION 1. This act shall be known and cited as the 'Gale Stauffer, Jr., and Joseph Maher Law Enforcement Appreciation Act of 2014'."

A former § 25-3-73 [Laws, 1997, ch. 572, § 4; Laws, 1998, ch. 591, § 1, eff from and after passage (approved April 17, 1998); Repealed by Laws, 2000, ch. 581, § 1, eff from and after passage May 20, 2000] required all state and nonstate service employees to be paid on a delayed basis, twice per month, beginning on January 1, 2001.

§ 17-25-37. Violator of local government final order, resolution or ordinance to pay court costs and attorney fees associated with civil action to enforce the final order, resolution or ordinance if local government prevails.

(1) For purposes of this section:

(a) "Local government" means the board of supervisors of any county or the governing authorities of any municipality.

(b) "Person" means any individual, corporation or any other legal entity.

(2) If a local government passes an order, resolution or ordinance that is final and is no longer appealable to the local government and a person continues to violate a final decision of the local government regarding the order, resolution or ordinance, as the case may be, and the local government then files a civil action to enforce such order, resolution or ordinance, the person shall pay all court costs and attorney fees associated with the enforcement of the order, resolution or ordinance. The court costs and attorney fees shall be paid by such person after the court costs and attorney fees have been submitted to and approved by the court in which the action was taken, and only if the local government prevails.

HISTORY: Laws, 2020, ch. 424, § 1, eff from and after July 1, 2020.

TITLE 19.
COUNTIES AND COUNTY OFFICERS

CHAPTER 3.
BOARD OF SUPERVISORS

IN GENERAL

§ 19-3-1. Districts and boundaries; election of supervisors.

Each county shall be divided into five (5) districts, with due regard to equality of population and convenience of situation for the election of members of the boards of supervisors, but the districts as now existing shall continue until changed. The qualified electors of each district shall elect, at the next general election, and every four (4) years thereafter, in their districts one (1) member of the board of supervisors. Subject to the provisions of Sections 23-15-283 and 23-15-285, the board, by a three-fifths (3/5) vote of all members elected, may change the districts, the boundaries to be entered at large in the minutes of the proceedings of the board.

If the boundaries of the districts are changed by order of the board of supervisors as provided in this section, the order shall be published in a newspaper having general circulation in the county once each week for three (3) consecutive weeks.

HISTORY: Codes, Hutchinson's 1848, ch. 51, art 5 (2); 1857, ch. 59, arts 1, 2; 1871, §§ 1348, 1349; 1880, §§ 2129, 2130; 1892, § 272; 1906, § 291; Hemingway's 1917, § 3663; 1930, § 195; 1942, § 2870; Laws, 1920, ch. 298; Laws, 1930, ch 41; Laws, 1932, ch. 188; Laws, 1956, ch 180; Laws, 1966, ch. 290, § 1; Laws, 1968, ch. 564, § 1; Laws, 1971, ch. 493, § 1; Laws, 1980, ch. 425, § 1; Laws, 2012, ch. 353, § 2, eff October 5, 2012 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2019, ch. 340, § 4, eff from and after July 1, 2019.

Editor's Notes — By letter dated October 5, 2012, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Chapter 353, Laws of 2012.

Amendment Notes — The 2019 amendment, in the first paragraph, substituted "Sections 23-15-283 and 23-15-285" for "Section 23-15-285" in the present last sentence, and deleted the former last sentence, which read: "Provided, however, that such changed boundaries shall in as far as possible conform as to natural, visible artificial boundaries, such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, except county lines and municipal corporate limits."

§ 19-3-11. Regular meetings in counties having one court district.

JUDICIAL DECISIONS

1. In general.

Abandonment of a road, when it became effective, abrogated the county's easement for the road, and thus the property owners had a vested property right at the time of the reconsideration; constructive notice of the hearing to rescind the abandonment of the road was constitutionally insufficient under the peculiar facts of this case, and because the owners were not given adequate notice, the order rescinding the abandonment of the road through their property was void. Tippah Cty. v. LeRose, 283 So. 3d 149, 2019 Miss. LEXIS 353 (Miss. 2019).

§ 19-3-27. Duties of clerk of board of supervisors; signing of minutes.

JUDICIAL DECISIONS

2. Necessity and sufficiency of minutes.

4. —Particular matters.

There were no discrepancies between a property owner's transcript and the minutes of a board of supervisors because the board's signed minutes adopted the recommendations of the planning and zoning administrator and the county attorney, who both asserted that the owner was in violation of a zoning ordiance. Hatfield v. Bd. of Supervisors of Madison Cty., 235 So. 3d 18, 2017 Miss. LEXIS 315 (Miss. 2017).

§ 19-3-40. Power of board to adopt, modify, alter, or repeal orders, resolutions or ordinances not inconsistent with law.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. No state preemption.

1. In general.

County did not show 2004 Miss. Private and Local Laws ch. 920, requiring the county to distribute portions of a gaming fee to a town and a school district, was unconstitutional because (1) Miss. Const. art. 4, § 87 did not apply as it related to the suspension of general laws, since the law applied to specific governmental entities for specific purposes, and, (2) if Miss. Const. art. 4, § 87 applied, the law did not suspend the operation of the general statutes of Miss. Code Ann. §§ 19-3-40(3)(f) or 75-76-195, as a law authorized the distributions and 2004 Miss. Private and Local Laws ch. 920 and Miss. Code Ann. § 75-76-195 were separate statutes authorizing the imposition of a fee. Tunica County v. Town of Tunica, 227 So. 3d 1007, 2017 Miss. LEXIS 179 (Miss. 2017).

2. No state preemption.

Forrest County Board of Supervisors had the authority to enact a fencing ordinance under the home rule statute and the ordinance was not preempted by state law since: (1) the Mississippi legislature had not expressly granted the Mississippi Oil and Gas Board (OGB) the exclusive authority to address industry safety issues: (2) the ordinance was not inconsistent with state oil and gas statutes and regulations; and (3) the OGB had not promulgated any regulation prohibiting perimeter fencing. Delphi Oil, Inc. v. Forrest County Bd. of Supervisors, 114 So. 3d 719, 2013 Miss. LEXIS 326 (Miss. 2013).

§ 19-3-41. Jurisdiction and powers generally.

(1) The boards of supervisors shall have within their respective counties full jurisdiction over roads, ferries and bridges, except as otherwise provided by Section 170 of the Constitution, and all other matters of county police. They shall have jurisdiction over the subject of paupers. They shall have power to levy such taxes as may be necessary to meet the demands of their respective counties, upon such persons and property as are subject to state taxes for the time being, not exceeding the limits that may be prescribed by law. They shall cause to be erected and kept in good repair, in their respective counties, a good and convenient courthouse and a jail. A courthouse shall be erected and kept in good repair in each judicial district and a jail may be erected in each judicial district. They may close a jail in either judicial district, at their discretion, where one (1) jail will suffice. They shall have the power, in their discretion, to prohibit or regulate the sale and use of firecrackers, roman candles, torpedoes, skyrockets, and any and all explosives commonly known and referred to as fireworks, outside the confines of municipalities. They shall have and exercise such further powers as are or shall be conferred upon them by law. They shall have authority to negotiate with and contract with licensed real estate brokers for the purpose of advertising and showing and procuring prospective purchasers for county-owned real property offered for sale in accordance with the provisions of Section 19-7-3.

(2) The board of supervisors of any county, in its discretion, may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the county including, but not limited to, past-due fees, fines and assessments, delinquent ad valorem taxes on personal property and delinquent ad valorem taxes on mobile homes that are entered as personal property on the mobile home rolls, collection fees associated with the disposal or collection of garbage, rubbish and solid waste, or with the district attorney of the circuit court district in which the county is located to collect any delinquent fees, fines and other assessments. Any such contract may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the county and shall not be reduced by any collection costs or fees. There shall be due to the county from any person whose delinquent payment is collected pursuant to a contract executed under this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state. However, in the case of delinquent fees owed to the county for garbage or rubbish collection or disposal, only the amount of the delinquent fees, which may include an additional amount not to exceed up to One Dollar ($1.00) or ten percent (10%) per month, whichever is greater, on the current monthly bill on the balance of delinquent monthly fees as prescribed under Sections 19-5-21 and 19-5-22, may be collected and no amount in addition to such delinquent fees may be collected if the board of supervisors of the county has notified the county tax collector under Section 19-5-22 for the purpose of prohibiting the issuance of a motor vehicle road and bridge privilege license tag to the person delinquent in the payment of such fees. Any private attorney or private collection agent or agency contracting with the county under the provisions of this subsection shall give bond or other surety payable to the county in such amount as the board of supervisors deems sufficient. Any private attorney with whom the county contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the county contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi. Neither the county nor any officer or employee of the county shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the county has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and regulations for use by counties in contracting with persons or businesses under the provisions of this subsection.

(3) In addition to the authority granted under subsection (2) of this section, the board of supervisors of any county, in its discretion, may contract with one or more of the constables of the county to collect delinquent criminal fines imposed in the justice court of the county. Any such contract shall provide for payment contingent upon successful collection efforts, and the amount paid

to a constable may not exceed twenty-five percent (25%) of the amount which the constable collects. The entire amount of all delinquent criminal fines collected under such a contract shall be remitted by the constable to the clerk of the justice court for deposit into the county general fund as provided under Section 9-11-19. Any payments made to a constable pursuant to a contract executed under the provisions of this section may be paid only after presentation to and approval by the board of supervisors of the county.

(4) If a county uses its own employees to collect any type of delinquent payment owed to the county, then from and after July 1, 1999, the county may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the county may utilize credit cards or electronic fund transfers. The county may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment.

(5) In addition to such authority as is otherwise granted under this section, the board of supervisors of any county may expend funds necessary to maintain and repair, and to purchase liability insurance, tags and decals for, any personal property acquired under the Federal Excess Personal Property Program and the Firefighter Property Program that is used by the local volunteer fire department.

(6) The board of supervisors of any county, in its discretion, may expend funds to provide for training and education of newly elected or appointed county officials before the beginning of the term of office or employment of such officials. Any expenses incurred for such purposes may be allowed only upon prior approval of the board of supervisors. Any payments or reimbursements made under the provisions of this subsection may be paid only after presentation to and approval by the board of supervisors.

(7) The board of supervisors of any county may expend funds to purchase, maintain and repair equipment for the electronic filing and storage of filings, files, instruments, documents and records using microfilm, microfiche, data processing, magnetic tape, optical discs, computers or other electronic process which correctly and legibly stores and reproduces or which forms a medium for storage, copying or reproducing documents, files and records for use by one (1), all or any combination of county offices, employees and officials, whether appointed or elected.

(8) In addition to the authority granted in this section, the board of supervisors of any county may expend funds as provided in Section 29-3-23(2).

(9) The board of supervisors of any county may perform and exercise any duty, responsibility or function, may enter into agreements and contracts, may provide and deliver any services or assistance, and may receive, expend and administer any grants, gifts, matching funds, loans or other monies, in accordance with and as may be authorized by any federal law, rule or regulation creating, establishing or providing for any program, activity or

service. The provisions of this subsection shall not be construed as authorizing any county, the board of supervisors of any county or any member of a board of supervisors to perform any function or activity that is specifically prohibited under the laws of this state or as granting any authority in addition to or in conflict with the provisions of any federal law, rule or regulation.

(10) The board of supervisors of any county may provide funds from any available source to assist in defraying the actual expenses to maintain an office as provided in Section 9-1-36. The authority provided in this subsection shall apply to any office regardless of ownership of such office or who may be making any lease payments for such office.

(11) The board of supervisors of any county may reimburse the cost of an insured's deductible for an automobile insurance coverage claim if the claim has been paid for damages to the insured's property arising from the negligence of a duly authorized officer, agent, servant, attorney or employee of the county in the performance of his or her official duties, and the officer, agent, servant, attorney or employee owning or operating the motor vehicle is protected by immunity under the Mississippi Tort Claims Act, Section 11-46-1 et seq.

HISTORY: Codes, Hutchinson's 1848, ch. 51, art 5 (3); 1857, ch. 59, art 16; 1871, § 1363; 1880, § 2144; 1892, § 289; 1906, § 307; Hemingway's 1917, § 3680; 1930, § 214; 1942, § 2890; Laws, 1896, ch. 132; Laws, 1956, ch. 204; Laws, 1987, ch. 383; Laws, 1990, ch. 532, § 1; Laws, 1993, ch. 455, § 1; Laws, 1994, ch. 521, § 30; Laws, 1995, ch. 496, § 1; Laws, 1995, ch. 550, § 1; Laws, 1998, ch. 482, § 1; Laws, 1999, ch. 369, § 3; Laws, 1999, ch. 516, § 1; Laws, 2000, ch. 363, § 1; Laws, 2000, ch. 515, § 1; Laws, 2004, ch. 534, § 2; Laws, 2010, ch. 517, § 3; Laws, 2014, ch. 432, § 1; Laws, 2017, ch. 410, § 3, eff from and after passage (approved Apr. 6, 2017.); Laws, 2018, ch. 302, § 1, eff from and after July 1, 2018.

Editor's Notes — Former Section 29-3-23(2), referred to in subsection (8) of this section, provided counties could make restitution to school districts for the principal amount of certain bonds purchased with proceeds from the sale of lieu lands that were not remitted to the school districts entitled to the proceeds, was repealed by its own terms, effective December 31, 2001.

Amendment Notes — The 2014 amendment added (11); and made minor stylistic changes.

The 2017 amendment, effective April 6, 2017, in (2), inserted "collection fees associated with the disposal or collection of garbage, rubbish and solid waste" in the first sentence, and "which may include an additional amount...Sections 19-5-21 and 19-5-22" in the fourth sentence; and made minor stylistic changes.

The 2018 amendment inserted "and the Firefighter Property Program" in (5).

§ 19-3-48. Monthly office allowance for attorney employed by board.

The board of supervisors of any county in the state is authorized, in its discretion, to pay a monthly office allowance to the attorney employed by the board in an amount not exceeding the amount authorized to be paid for secretarial services for the county prosecuting attorney under Section 19-23-19.

HISTORY: Laws, 2019, ch. 485, § 11, eff from and after July 1, 2019.

Editor's Notes — Laws of 2019, ch. 485, § 14, provides
"SECTION 14. This act shall take effect and be in force from and after January 1, 2020, except for Section 11, which shall take effect and be in force from and after July 1, 2019, and Sections 12 and 13, which shall take effect and be in force from and after the passage of this act."

§ 19-3-49. Employment of counsel where there is no elected county prosecuting attorney; salary of Hancock County prosecuting attorney.

(1) In all counties of this state wherein there is no elected county prosecuting attorney, the boards of supervisors shall have the power and authority to employ a competent attorney to appear and prosecute in cases requiring the services of the county prosecuting attorney. The compensation paid to the person so employed shall be paid from the general fund of such county and shall not exceed, during any calendar year, the amount authorized by law to be paid as salary to the county prosecuting attorney in such county. The employment of a county prosecuting attorney as authorized by this section shall be pursuant to a contract which shall provide that the salary of such county prosecuting attorney shall not be reduced, increased or terminated for the period of the contract. Such contract shall be for the period of the remainder of the term of office of the board of supervisors which employs the county prosecuting attorney; however, the contract shall provide expressly or by reference to this section that the contract shall be abrogated upon the creation and filling of the office of elected county prosecuting attorney.

(2) Notwithstanding any of the provisions of subsection (1) of this section to the contrary, the board of supervisors of Hancock County may pay the attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney an annual salary in an amount not to exceed fifty percent (50%) of the annual salary of the full-time district attorney as provided in Section 25-3-35. The Legislature finds and declares that the annual salary authorized by this section is justified in Hancock County for the following reasons:

(a) The addition of a justice court judge in January 2004 created a total of three (3) judges in the county and requires the attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney to spend additional time in court; and

(b) The population of Hancock County increased from thirty-one thousand seven hundred sixty (31,760) in 1990, to forty-two thousand nine hundred sixty-seven (42,967) in 2000, which placed it in the top ten percent (10%) of the fastest growing counties in the state. The population of Hancock County has continued to increase at one of the highest rates in the state through 2018; and

(c) There was a significant increase in the number of cases filed in justice court and cases appealed to a higher court; and

(d) The attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney is responsible for handling a large number of drug, alcohol and mental commitment proceedings, and the per capita rate of those proceedings in the county has far exceeded the typical rate in other Mississippi counties. Further, Hancock County created a county court in 2018 thus exacerbating the case load and expediency of those proceedings, requiring additional time and responsibilities of the county prosecutor.

HISTORY: Codes, 1942, § 2958.3; Laws, 1950, ch. 267; Laws, 1978, ch. 509, § 4; Laws, 2004, ch. 447, § 1; Laws, 2006, ch. 363, § 1, eff from and after July 1, 2006; Laws, 2021, ch. 427, § 1, eff from and after passage (approved April 9, 2021).

Amendment Notes — The 2021 amendment, effective April 9, 2021, in (2), substituted "salary in an amount not to exceed fifty percent (50%) of the annual salary of the full-time district attorney as provided in Section 25-3-35" for "salary of Forty-five Thousand Dollars ($45,000.00)"; in (2)(b), added the last sentence; and in (2)(d), added "and the per capita rate of those proceedings ... Mississippi counties" in the first sentence, and added the last sentence.

§ 19-3-71. Appointment of county fire services coordinator.

The board of supervisors in each county shall appoint a county fire services coordinator, and may compensate him from any available county funds, except insurance rebate monies from the County Volunteer Fire Department Fund. The county fire services coordinator shall demonstrate that he possesses fire-related knowledge and experience as well as meeting the guidelines established by the Commissioner of Insurance. The director of the local organization for emergency management serving the county may be the coordinator if he meets the criteria provided in this section.

HISTORY: Laws, 1988, ch. 584, § 1; Laws, 1989, ch. 329, § 1; Laws, 2013, ch. 403, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted "services" and "except insurance rebate monies from the County Volunteer Fire Department Fund" in the first sentence; rewrote the second sentence; and substituted "meets the criteria provided" for "is a fire fighter as described" in the third sentence.

§ 19-3-85. Authority of board to dispose of lost, stolen, abandoned or misplaced personal property.

The board of supervisors of any county, upon the receipt or recovery of any lost, stolen, abandoned or misplaced personal property by the sheriff or other law enforcement officers of the county, shall cause to be posted, in three (3) public places in the county, notice that such property has been received or recovered. Such notice shall contain an accurate and detailed description of such property and, if the board of supervisors is advised as to who owns the property, a copy of the notice shall be mailed to such person or persons in addition to being posted as required in this section. The owner may recover the

property by filing a claim with the board of supervisors and establishing his right to the property. The board may require bond of the person claiming the property before delivering it to him. Parties having adverse claims to the property may proceed according to law.

If no person claims the property within one hundred twenty (120) days from the date the notice is given, the board of supervisors shall cause the property to be sold at public auction to the highest bidder for cash after first posting notice of the sale in three (3) public places in the county at least ten (10) days before the date of the sale. The notice shall contain a detailed and accurate description of the property to be sold and shall be addressed to the unknown owners or other persons interested in the property to be sold. The notice shall also set forth the date, time and place the sale is to be conducted and shall designate the sheriff to make the sale.

However, lost, stolen, abandoned or misplaced motor vehicles and bicycles may be sold in the manner provided in the preceding paragraph after the expiration of ninety (90) days from their receipt or recovery by law enforcement officers of the county.

The sheriff, promptly upon completion of the sale, shall deliver to the chancery clerk a copy of the notice authorizing the sale, a list of the property sold, the amount paid for each item, the person to whom each item was sold, and all monies received from such sale. The clerk then shall deposit the monies into the county treasury and the proceeds of the sale shall be first applied to the necessary costs and expenses of the sale, with the remainder to be credited to the special supplemental budget of the sheriff to be expended by the sheriff for any law enforcement purpose upon approval of the board of supervisors. The chancery clerk shall file the information concerning the sale among the other records of his office. If, within ninety (90) days after the date of the sale, any person claims to be the owner of the property sold, the board, upon satisfactory proof of ownership, shall pay to such person the amount for which the property was sold, and the board may require of such person a bond in such cases as the board deems advisable. No action shall be maintained against the county or any of its officers or employees or the purchaser at the sale for any property sold or the proceeds therefrom after the expiration of ninety (90) days from the date of the sales as authorized in this section.

The provisions of Sections 63-21-201 through 63-21-223 relating to the disposition of abandoned manufactured or mobile homes and associated personal property shall be in addition to, and shall supersede, the provisions of this section.

HISTORY: Laws, 2002, ch. 502, § 1, eff from and after July 1, 2002; Laws, 2021, ch. 376, § 13, eff from and after July 1, 2021.

Amendment Notes— The 2021 amendment added the last paragraph.

CHAPTER 5.
HEALTH, SAFETY AND PUBLIC WELFARE

IN GENERAL

Sec.

§ 19-5-21. Levy of ad valorem taxes and surcharges for payment of costs of establishment and operation of garbage and rubbish disposal systems; borrowing in anticipation of surcharge levy; use of special funds.

(1)(a) Except as provided in paragraphs (b), (c), (d) and (g) of this subsection, the board of supervisors, to defray the cost of establishing and operating the system provided for in Section 19-5-17, may levy an ad valorem tax not to exceed four (4) mills on all taxable property within the area served by the county garbage or rubbish collection or disposal system. The service area may be comprised of unincorporated or incorporated areas of the county or both; however, no property shall be subject to this levy unless that property is within an area served by a county's garbage or rubbish collection or disposal system.

(b) The board of supervisors of any county wherein Mississippi Highways 35 and 16 intersect and having a land area of five hundred eighty-six (586) square miles may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed six (6) mills on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(c) The board of supervisors of any county bordering on the Mississippi River and traversed by U.S. Highway 61, and which is intersected by Mississippi Highway 4, having a population of eleven thousand eight hundred fifty-four (11,854) according to the 1970 federal census, and having an assessed valuation of Fourteen Million Eight Hundred Seventy-two

Thousand One Hundred Forty-four Dollars ($14,872,144.00) in 1970, may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed six (6) mills on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(d) The board of supervisors of any county having a population in excess of two hundred fifty thousand (250,000), according to the latest federal decennial census, and in which Interstate Highway 55 and Interstate Highway 20 intersect, may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed seven (7) mills on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(e) The proceeds derived from any additional millage levied pursuant to paragraphs (a) through (d) of this subsection in excess of two (2) mills shall be excluded from the ten percent (10%) increase limitation under Section 27-39-321 for the first year of such additional levy and shall be included within such limitation in any year thereafter. The proceeds from any millage levied pursuant to paragraph (g) shall be excluded from the ten percent (10%) increase limitation under Section 27-39-321 for the first year of the levy and shall be included within the limitation in any year thereafter.

(f) The rate of the ad valorem tax levied under this section shall be shown as a line item on the notice of ad valorem taxes on taxable property owed by the taxpayer.

(g) In lieu of the ad valorem tax authorized in paragraphs (a), (b), (c) and (d) of this subsection, the fees authorized in subsection (2) of this subsection and in Section 19-5-17 or any combination thereof, the board of supervisors may levy an ad valorem tax not to exceed six (6) mills to defray the cost of establishing and operating the system provided for in Section 19-5-17 on all taxable property within the area served by the system as provided in paragraph (a) of this subsection.

Any board of supervisors levying the ad valorem tax authorized in this paragraph (g) is prohibited from assessing or collecting fees for the services provided under the system.

(2) In addition to the ad valorem taxes authorized in paragraphs (a), (b) and (c) of subsection (1) or in lieu of any other method authorized to defray the cost of establishing and operating the system provided for in Section 19-5-17, the board of supervisors of any county with a garbage or rubbish collection or disposal system may assess and collect fees to defray the costs of the services. The board of supervisors may assess and collect the fees from each single family residential generator of garbage or rubbish. The board of supervisors also may assess and collect the fees from each industrial, commercial and multifamily residential generator of garbage or rubbish for any time period that the generator has not contracted for the collection of garbage and rubbish that is ultimately disposed of at a permitted or authorized nonhazardous solid waste management facility. The fees assessed and collected under this subsec-

tion may not exceed, when added to the proceeds derived from any ad valorem tax imposed under this section and any special funds authorized under subsection (7), the actual costs estimated to be incurred by the county in operating the county garbage and rubbish collection and disposal system. In addition to such fees, an additional amount not to exceed up to One Dollar ($1.00) or ten percent (10%) per month, whichever is greater, on the current monthly bill may be assessed and collected on the balance of any delinquent monthly fees.

(3)(a) Before the adoption of any order to increase the ad valorem tax assessment or fees authorized by this section, the board of supervisors shall publish a notice advertising their intent to adopt an order to increase the ad valorem tax assessment or fees authorized by this section. The notice shall specify the purpose of the proposed increase, the proposed percentage increase and the proposed percentage increase in total revenues for garbage or rubbish collection or disposal services or shall contain a copy of the resolution by the board stating their intent to increase the ad valorem tax assessment or fees. The notice shall be published in a newspaper published or having general circulation in the county for no less than three (3) consecutive weeks before the adoption of the order. The notice shall be in print no less than the size of eighteen (18) point and shall be surrounded by a one-fourth (¼) inch black border. The notice shall not be placed in the legal section notice of the newspaper. There shall be no language in the notice stating or implying a mandate from the Legislature.

(b) In addition to the requirement for publication of notice, the board of supervisors shall notify each person furnished garbage or rubbish collection or disposal service of any increase in the ad valorem tax assessment or fees. In the case of an increase of the ad valorem tax assessment, a notice shall be conspicuously placed on or attached to the first ad valorem tax bill on which the increased assessment is effective. In the case of an increase in fees, a notice shall be conspicuously placed on or attached to the first bill for fees on which the increased fees or charges are assessed. There shall be no language in any notice stating or implying a mandate from the Legislature.

(4) The board of supervisors of each county shall adopt an order determining whether or not to grant exemptions, either full or partial, from the fees for certain classes of generators of garbage or rubbish. If a board of supervisors grants any exemption, it shall do so in accordance with policies and procedures, duly adopted and entered on its minutes, that clearly define those classes of generators to whom the exemptions are applicable. The order granting exemptions shall be interpreted consistently by the board when determining whether to grant or withhold requested exemptions.

(5)(a) The board of supervisors in any county with a garbage or rubbish collection or disposal system only for residents in unincorporated areas may adopt an order authorizing any single family generator to elect not to use the county garbage or rubbish collection or disposal system. If the board of supervisors adopts an order, the head of any single family residential generator may elect not to use the county garbage or rubbish collection or

disposal service by filing with the chancery clerk the form provided for in this subsection before December 1 of each year. The board of supervisors shall develop a form that shall be available in the office of the chancery clerk for the head of household to elect not to use the service and to accept full responsibility for the disposal of his garbage or rubbish in accordance with state and federal laws and regulations. The board of supervisors, following consultation with the Department of Environmental Quality, shall develop and the chancery clerk shall provide a form to each person electing not to use the service describing penalties under state and federal law and regulations for improper or unauthorized management of garbage. Notice that the election may be made not to use the county service by filing the form with the chancery clerk's office shall be published in a newspaper published or having general circulation in the county for no less than three (3) consecutive weeks, with the first publication being made no sooner than five (5) weeks before the first day of December. The notice shall state that any single family residential generator may elect not to use the county garbage or rubbish collection or disposal service by the completion and filing of the form for that purpose with the chancery clerk's office before December 1 of that year. The notice shall also include a statement that any single family residential generator who does not timely file the form shall be assessed any fees levied to cover the cost of the county garbage or rubbish collection or disposal service. The chancery clerk shall maintain a list showing the name and address of each person who has filed a notice of intent not to use the county garbage or rubbish collection or disposal service.

(b) If the homestead property of a person lies partially within the unincorporated service area of a county and partially within the incorporated service area of a municipality and both the municipality and the county provide garbage collection and disposal service to that person, then the person may elect to use either garbage collection and disposal service. The person shall notify the clerk of the governing authority of the local government whose garbage collection and disposal service he elects not to use of his decision not to use such services by certified mail, return receipt requested. The person shall not be liable for any fees or charges from the service he elects not to use.

(6) The board may borrow money for the purposes of defraying the expenses of the system in anticipation of:

(a) The tax levy authorized under this section;

(b) Revenues resulting from the assessment of any fees for garbage or rubbish collection or disposal; or

(c) Any combination thereof.

(7) In addition to the fees or ad valorem millage authorized under this section, a board of supervisors may use monies from any special funds of the county that are not otherwise required by law to be dedicated for use for a particular purpose in order to defray the costs of the county garbage or rubbish collection or disposal system.

HISTORY: Codes, 1942, § 2912.7-02; Laws, 1971, ch. 370, § 2; Laws, 1972, ch.

368, § 1; Laws, 1973, ch. 355, § 1; Laws, 1987, ch. 507, § 14; Laws, 1990, ch. 563, § 1; Laws, 1991, ch. 581, § 28; Laws, 1992, ch. 583 § 13; Laws, 1994, ch. 624, § 4; Laws, 1996, ch. 536, § 1; Laws, 1999, ch. 473, § 1; Laws, 2004, ch. 529, § 1; Laws, 2017, ch. 410, § 1, eff from and after passage (approved Apr. 6, 2017).

Amendment Notes — The 2017 amendment, effective April 6, 2017, added the last sentence of (2).

§ 19-5-22. Assessment of fees and charges; joint and several liability of generator and property owner; notice; liens; discharge of liens; levy of garbage fees as special assessment against property in lieu of lien.

(1) Fees for garbage or rubbish collection or disposal shall be assessed jointly and severally against the generator of the garbage or rubbish and against the owner of the property furnished the service. In addition to such fees, an additional amount not to exceed up to One Dollar ($1.00) or ten percent (10%) per month, whichever is greater, on the current monthly bill may be assessed on the balance of any delinquent monthly fees. Any person who pays, as a part of a rental or lease agreement, an amount for garbage or rubbish collection or disposal services shall not be held liable upon the failure of the property owner to pay those fees.

(2) Every generator assessed the fees authorized by Section 19-5-21 and the owner of the property occupied by that generator shall be jointly and severally liable for the fees. The fees shall be a lien upon the real property offered garbage or rubbish collection or disposal service.

The board of supervisors may assess the fees annually. If the fees are assessed annually, the fees for each calendar year shall be a lien upon the real property beginning on January 1 of the next immediately succeeding calendar year. The person or entity owing the fees, upon signing a form provided by the board of supervisors, may pay the fees in equal installments.

If fees are assessed on a basis other than annually, the fees shall become a lien on the real property offered the service on the date that the fees become due and payable.

No real or personal property shall be sold to satisfy any lien imposed under this subsection (2).

The county shall mail a notice of the lien, including the amount of unpaid fees and a description of the property subject to the lien, to the owner of the property.

(3) Liens created under subsection (2) may be discharged by filing with the circuit clerk a receipt or acknowledgement, signed by the designated county official or billing and collection entity, that the lien has been paid or discharged.

(4)(a) The board of supervisors may notify the tax collector of any unpaid fees assessed under Section 19-5-21 within ninety (90) days after the fees are due. Before notifying the tax collector, the board of supervisors shall provide notice of the delinquency to the person who owes the delinquent fees and

shall afford an opportunity for a hearing, that complies with the due process protections the board deems necessary, consistent with the Constitutions of the United States and the State of Mississippi. The board of supervisors shall establish procedures for the manner in which notice shall be given and the contents of the notice; however, each notice shall include the amount of fees and shall prescribe the procedure required for payment of the delinquent fees. The board of supervisors may designate a disinterested individual to serve as hearing officer.

(b) Upon receipt of a delinquency notice, the tax collector shall not issue or renew a motor vehicle road and bridge privilege license for any motor vehicle owned by a person who is delinquent in the payment of fees unless those fees in addition to any other taxes or fees assessed against the motor vehicle are paid. Payment of all delinquent garbage fees shall be deemed a condition of receiving a motor vehicle road and privilege license tag.

(c) The tax collector may forward the motor vehicle road and privilege license tag renewal notices to the designated county official or entity that is responsible for the billing and collection of the county garbage fees. The designated county official or the billing and collection entity shall identify those license tags that shall not be issued due to delinquent garbage fees. The designated county official or the billing and collection entity shall stamp a message on the license tag renewal notices that the tag will not be renewed until delinquent garbage fees are paid. The designated county official or the billing and collection entity shall return the license tag notices to the tax collector before the first of the month.

(d) Any appeal from a decision of the board of supervisors under this section regarding payment of delinquent garbage fees may be taken as provided in Section 11-51-75.

(5) The board of supervisors may levy the garbage fees as a special assessment against the property in lieu of the lien authorized in this section. The board of supervisors shall certify to the tax collector the assessment due from the owner of the property. The tax collector shall enter the assessment upon the annual tax roll of the county and shall collect the assessment at the same time he collects the county ad valorem taxes on the property.

No real or personal property shall be sold to satisfy any assessment imposed under this subsection (5).

HISTORY: Laws, 1994, ch. 624, § 5; Laws, 1996, ch. 536, § 2; Laws, 1997, ch. 423, § 1; Laws, 2008, ch. 441, § 1; Laws, 2009, ch. 421, § 1; Laws, 2017, ch. 410, § 2, eff from and after passage (approved Apr. 6, 2017).

Amendment Notes — The 2017 amendment, effective April 6, 2017, added the second sentence of (1).

§ 19-5-73. Establishment of farmers' markets.

HISTORY: Codes, 1942, § 2984.5; Laws, 1948, ch. 466, §§ 1-3; Laws, 1954, ch. 147, §§ 1, 2; Laws, 1986, ch. 400, § 7; Laws, 2012, ch. 467, § 2; brought forward without change, Laws, 2013, ch. 396, § 2, eff from and after July 1, 2013.

Editor's Notes — This section was brought forward without change by Chapter 396, Laws of 2013, effective from and after July 1, 2013. Since the language of this section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2013 amendment brought the section forward without change.

§ 19-5-93. Donations for certain patriotic and charitable uses.

The board of supervisors of each county is authorized, in its discretion, to donate money for the objects and purposes following, to wit:

(a) **Confederate graves.** For the location, marking, care and maintenance of the grave or graves and graveyard of Confederate soldiers or sailors who died in the Confederate service, and the purchase, if necessary, of the land on which any of the said graveyards may be situated, and the erection and maintenance of appropriate monuments and appropriate inscriptions thereon. In the exercise of this power the board is fully authorized to accept donations of land on which any of said graveyards may be situated and also money or funds to be used for any of the purposes in this section expressed.

Any board of supervisors may, in its discretion, contribute money to be used for the upkeep of graves of the Confederate dead in its county.

(b) **Care of the aged.** For the support and maintenance of such residents of the county who are worthy, indigent aged inmates of the Old Ladies' Home of Jackson, Mississippi, or of the Golden Age Nursing Home and Hospital for North Mississippi of Greenwood, Mississippi, and not exceeding Five Hundred Dollars ($500.00) per annum for the support of the county's inmates of the Old Men's Home, located near Jackson, Mississippi, and in addition thereto a sum not exceeding Two Hundred Dollars ($200.00) per annum to each of said institutions for their support and maintenance in the care of the aged.

(c) **King's Daughters.** To the King's Daughters in their respective counties for charities under their supervision.

(d) **Travelers Aid Society.** A sum of money not exceeding Fifteen Dollars ($15.00) per month for the support of the organization known as the Travelers Aid Society, provided the same is nonsectarian.

(e) **Hospitals for pellagra sufferers.** For the establishment and maintenance of a hospital for the treatment of persons afflicted with pellagra. For this purpose the board may issue bonds and incur such indebtedness within the limits now authorized by law.

(f) **Tubercular hospitals.** For the establishment and maintenance of a hospital for the care and treatment of persons suffering from tuberculosis. In the execution of this power the board may select trustees to establish and operate said hospital. In counties having a population of more than forty thousand (40,000) people, as shown by the latest United States census, the board may set aside, appropriate and expend monies from the general fund for the purpose of aiding in the maintenance and support of hospitals maintained and operated in such county for the care and treatment of

persons suffering from tuberculosis. The monies shall be expended by the board through such trustees, not less than three (3) and not more than five (5), to be elected by the board of supervisors annually. The trustees shall file reports with the board at least once every six (6) months showing in detail all expenditures made by them and the number of patients which have been for the preceding period aided or cared for by the institution, and the board may otherwise require a strict accounting of the administration of said funds.

(g) **Same – additional provisions.** The boards of supervisors of one or more counties are hereby authorized and empowered, in their discretion, separately or jointly, to acquire by gift, purchase or lease, real estate, for tubercular hospital purposes, and to own, erect, build, establish, maintain, regulate and support a tubercular hospital and to remodel buildings on such property to be used for such hospital purposes.

In the event the boards of supervisors of two (2) or more counties agree to cooperate in establishing and maintaining such hospital, the board of supervisors of each of said counties shall adopt a resolution agreeing to the proportionate part each county will contribute to the establishment and maintaining of such hospital.

Each county operating under the provisions of this subsection is hereby authorized and empowered to set aside, appropriate and expend monies from the general fund for the purpose of erecting, maintaining and operating such hospital.

(h) **Charity wards in hospitals.** A sum of money not exceeding One Hundred Dollars ($100.00) per month to maintain a charity ward or wards in any hospital in their respective counties, or in the event there shall be no hospital in such county, then a like sum, in their discretion, to maintain a charity ward or wards in any hospital in any adjoining county receiving and treating patients from such county having no hospital.

(i) **Same – coast counties.** The several counties of this state bordering on the tidewater of the Gulf of Mexico are hereby authorized and empowered, in the discretion of the proper authorities thereof, to appropriate such a sum of money as said authorities shall deem reasonable, to provide and maintain a charity ward or wards, in any of the hospitals in said counties, or, in the discretion of said authorities, to make and enter into contracts with any such hospitals for the treatment and care in such hospitals of the indigent sick of said counties, and to pay therefor out of the general fund of such counties such sum or sums as shall be a reasonable and just compensation to said hospital. However, the board of supervisors of any county mentioned herein may, in its discretion, make and enter into contracts with any hospital in any adjoining county receiving and treating patients from the respective counties mentioned herein in such hospitals of the indigent sick of said counties, mentioned herein, and to pay therefor out of the general fund of such county, such sum or sums that shall be reasonable and just to said hospitals.

(j) **Public libraries.** A sum not to exceed One Thousand Dollars ($1,000.00) per annum toward the support and maintenance of one or more

public libraries situated in the county. In any county whose total assessed valuation, including railroads and all public utilities, is more than Eighteen Million Dollars ($18,000,000.00) the board, in its discretion, may appropriate a sum not to exceed Three Thousand Dollars ($3,000.00) per annum for public libraries.

The board may also give or donate any legislative journals, constitutional convention journals, printed official reports of any state or county officers, official reports of departments, bureaus or officers of the United States, and copies of the acts of the Legislature or laws of Mississippi now or hereafter in the county library of such county and not needed, in the opinion of the board in the county library (but not including any Mississippi reports and not including any acts of the Legislature or laws of the state, unless such acts or laws be more than twenty (20) years old) to any library or library association or foundation or organization maintaining a free public library for reference or otherwise, provided such library, association, foundation or organization owns free from encumbrance a fireproof library building located in this state, in which building said journals, reports, acts and laws may be and shall be deposited where received under this subsection and made accessible under reasonable regulations to the general public. Such library, association, foundation or organization shall not have the right to sell or otherwise dispose of said journals, reports, acts and laws. Said journals, reports, acts and laws may be returned to the county library from which received without expense to the county, or to the state library, without expense to the state, at any time by the library, association, foundation or organization receiving the same.

Any gift or donation made by the board of supervisors of any county under the authority of this subsection shall be evidenced by an order spread upon the minutes of said board. The county shall bear no expense in connection with any donation. The sheriff of the county, or the custodian of the county library, shall deliver to the representative of the library, association, foundation or organization entitled to receive the same any of said journals, reports, acts, laws and official publications in accordance with the directions contained in any order of the board of supervisors for the delivery of the same, and shall take proper receipt from the party receiving the same, and shall deliver such receipt to the clerk of the board of supervisors of the county, and the board of supervisors shall have the said receipt entered in full on the minutes of the board.

Any library, association, foundation or organization receiving any gift or donation from any county under this subsection shall report in writing to the board of supervisors, from which such gifts or donations have been received every two (2) years, that the gifts and donations so received are still in the possession of the donee and are accessible to the general public. If any of the gifts or donations so received have been lost, destroyed or have otherwise disappeared, report thereof shall be made.

If any library, association, foundation or organization receiving gifts or donations under this subsection shall cease operating as a free public library

or shall cease to be the owner of a fireproof building in which it keeps and maintains a free public library, for reference or otherwise, the said library, association, foundation or organization shall thereupon immediately return to the county library, without expense to the county, or to the state library, without expense to the state, any gifts or donations it may have received under this subsection.

(k) **Patriotic organizations and memorials.** A sum not to exceed Five Thousand Dollars ($5,000.00) to build or aid any post of the American Legion, any chapter of the Daughters of the American Revolution, any chapter of the United Daughters of the Confederacy, or any post, unit or chapter of any patriotic organization within the county in building a memorial to the veterans of World War I and World War II; and a sum not to exceed Five Thousand Dollars ($5,000.00) to aid in defraying the cost of the erection of suitable memorials to deceased soldiers, sailors and marines of the late world wars. Such appropriation may be made, even though no provision has been made therefor in the county budget.

(*l*) **American Red Cross.** Any board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually, out of any monies in its respective treasury, to be drawn by warrant thereon, a sum not exceeding One Hundred Dollars ($100.00) per million of assessed valuation to the support of a local chapter of the American Red Cross.

(m) **St. Jude Hospital.** For the payment of mileage expense for transporting persons to St. Jude Hospital in Memphis, Tennessee, for treatment. The mileage shall be based on a round-trip basis from the patient's place of residence to St. Jude Hospital at the mileage rate set forth in Section 25-3-41.

(n) **Public museums.** For the support and maintenance of such public museums located in the county constituted under the provisions of Chapter 9, Title 39, Mississippi Code of 1972.

(o) **Domestic violence shelters.** The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually out of any money in the county treasury, such sums as the board deems advisable to support any domestic violence shelter or rape crisis center operating within or serving its area. For the purposes of this section, "rape crisis center" means a place established to provide care, counseling and related services to victims of rape, attempted rape, sexual battery or attempted sexual battery.

(p) **Literacy programs.** The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate out of the general fund of the county such sum of money as the board deems reasonable to any literacy program being conducted within the county.

(q) **Care of neglected children.** The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury such sums as the board deems advisable to support any residential group home for the abused, abandoned or neglected children

which operates within or serves the county. For the purposes of this paragraph the term "residential group home" means a group residence established to provide care and counseling, and to serve as a home, for children who are the victims of abuse, neglect or abandonment.

(r) **Boys and Girls Club.** To any chartered chapter of the Boys and Girls Clubs of America located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth (¼) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(s) **Mississippi Burn Care Fund.** To the Mississippi Burn Care Fund, subject to the limitations specified in Section 21-19-58.

(t) **Court Appointed Special Advocates.** To any chapter of the Court Appointed Special Advocates (CASA), out of any funds in the county treasury, provided that the cumulative sum of donations to a chapter does not exceed the amount generated in the county by one-fourth (¼) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(u) **National Voluntary Organizations Active in Disaster (NVOAD).** To a local chapter of NVOAD, whether in-kind contributions or out of any funds in the county treasury, provided that the cumulative sum of donations to a local NVOAD does not exceed the amount generated in the county by one-fourth (¼) mill on all of the taxable property within the county during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(v) **Farmers' markets.** The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury, such sums as the board deems advisable to support any farmers' market that is certified by the Mississippi Department of Agriculture and Commerce and operating within the county, not to exceed the amount that would be generated from the levy of a one-fourth (¼) mill ad valorem tax upon all taxable property in the county.

(w) **Young Men's Christian Association (YMCA).** To any chartered chapter of the YMCA located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth (¼) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

HISTORY: Codes, Hemingway's 1917, §§ 3798, 3810, 3811; Hemingway's 1921 Supp. § 3811c; 1930, § 290 (a-l); 1942, § 2998; Laws, 1908, ch. 134; Laws, 1916, chs. 143, 235; Laws, 1918, ch. 205; Laws, 1920, ch. 289; Laws, 1928, chs. 233, 236; Laws, 1930, chs. 33, 56, 185; Laws, 1938, ch. 299; Laws, 1956, ch. 181; Laws, 1958, ch. 212; Laws, 1962, ch. 251; Laws, 1976, ch. 373; Laws, 1983, ch. 331, § 1; Laws,

1983, ch. 502, § 8; Laws, 1986, ch. 400, § 8; Laws, 1990, ch. 318, § 1; Laws, 1990, ch. 539, § 2; Laws, 1995, ch. 358, § 1; Laws, 2009, ch. 415, § 2; Laws, 2011, ch. 461, § 2; Laws, 2012, ch. 467, § 3; Laws, 2013, ch. 396, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted "Five Thousand Dollars ($5,000.00)" for "One Thousand Dollars ($1,000.00)" preceding "to aid in defraying the cost of the erection" in (k); and added (w).

OPINIONS OF THE ATTORNEY GENERAL

Although a Drug Task Force may not make a donation of funds or property, the counties and cities making up the Task Force may contribute funds to a domestic violence shelter as they see fit under Sections 19-5-93(o) and 93-21-115. Pacific, June 28, 1995, A.G. Op. #95-0329.

§ 19-5-95. Aid to fire departments.

(1) The board of supervisors of any county in this state having a population of less than one hundred fifty thousand (150,000), according to the most recent federal census, is hereby empowered and authorized to appropriate out of the county treasury annually a sum not in excess of Two Hundred Fifty Dollars ($250.00) in aid of any fire department for services and protection by such fire department, and, in its discretion, to appropriate out of the county treasury annually a sum not in excess of the amount which would be produced by a levy of one-fourth (¼) mill on all taxable property within the county in aid of municipal fire departments in the county, or in aid of fire protection districts and volunteer fire departments within the county which meet the requirements set forth in Section 83-1-39(6), but in no event shall the aggregate amount appropriated annually under this section exceed an amount equal to the amount which would be produced by a levy of one-fourth (¼) mill on all taxable property within the county.

(2) The board of supervisors of any county in this state having a population of one hundred fifty thousand (150,000) or greater, according to the most recent federal census, is hereby empowered and authorized to appropriate out of the county treasury annually a sum not in excess of One Thousand Dollars ($1,000.00) in aid of any fire department for services and protection by such fire department, and, in its discretion, to appropriate out of the county treasury annually a sum not in excess of the amount which would be produced by a levy of three-quarters (¾) mill on all taxable property within the county in aid of municipal fire departments in the county, or in aid of fire protection districts and volunteer fire departments within the county which meet the requirements set forth in Section 83-1-39(6), but in no event shall the aggregate amount appropriated annually under this section exceed an amount equal to the amount which would be produced by a levy of three-quarters (¾) mill on all taxable property within the county.

(3) Any appropriation that may be provided as prescribed under this section shall be additional and supplemental to any other funds provided or made available for such purposes under this section or any other section of law

and shall not be construed to restrict any such other funds that may be provided to municipal fire departments in the county, fire protection districts and volunteer fire departments within the county which meet the requirements of Section 83-1-39(6).

HISTORY: Codes, 1906, § 370; Hemingway's 1917, § 3743; 1930, § 234; 1942, § 2912; Laws, 1904, ch. 101; Laws, 1930, ch. 24; Laws, 1981, 1st Ex Sess, ch. 7; Laws, 2017, ch. 405, § 1, eff from and after passage (approved Apr. 5, 2017).

Amendment Notes — The 2017 amendment, effective April 5, 2017, in (1), inserted "having a population of less than one hundred fifty thousand (150,000), according to the most recent federal census" and "fire protection districts and," and substituted "Section 83-1-39(6)" for "Section 83-1-39(2)"; and added (2) and (3).

§ 19-5-99. Establishment of economic development districts.

(1) Subject to the provisions of Section 19-9-111, the board of supervisors of any county in the State of Mississippi, in its discretion, by order duly entered on its minutes, may establish economic development districts comprising all of the county, or one or more supervisors districts of the county, or may establish such economic development districts in cooperation with one or more other counties or with municipalities or with other local and private economic development groups. The board of supervisors may do everything within its power to secure and further industrial development of the county or counties or district, to advertise the natural resources and possibilities of the same, and to maintain and support the same.

All monies collected for the support and maintenance of such economic development district, in accordance with the tax levy provided in Section 19-9-111, shall be placed in the county treasury to the credit of the county or district economic development fund and shall be expended as other public funds are expended, and in which event the employees of such economic development district shall be employees of the county and considered as such. In addition to such funds provided by taxation, the board of supervisors of such county may accept gifts, gratuities and donations from municipalities in such districts and from any persons, firms or corporations desiring to make such donations. Such appropriation, gift or donation shall also be placed in the county treasury and be expended in the support and maintenance of such district.

At the option of such board of supervisors, or boards of supervisors if more than one (1) county is embraced in such economic development district, it may provide for the management of such economic development district by appointing not more than twenty-five (25) nor less than five (5) trustees, or if a multicounty district not more than five (5) trustees per participating county, who shall be qualified electors residing within such economic development district, to manage the affairs of such district, and in which event the funds made available by the county or counties for the support and maintenance of such economic development district may be expended by a majority vote of such trustees so appointed to manage such economic development district.

Each trustee who is an officer of the economic development district shall qualify by giving bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to Fifty Thousand Dollars ($50,000.00), the premiums on all such surety bonds being paid by such economic development district. If this option is exercised and such districts operated and maintained under this paragraph, then in such event the employees of such economic development district shall not be considered as employees of the county for state retirement or any other purposes.

All funds secured and expended under the provisions of this section shall be public funds and the Auditor of Public Accounts of the State of Mississippi shall audit the same as other public funds are now audited.

Notwithstanding any provision of this section to the contrary, the board of supervisors of a county having therein an economic development district established under this section or any other law and the governing authorities of any municipality located within the economic development district in such county may enter into a contract providing for the contribution of funds by the municipality or other local and private economic development groups to the economic development district and providing for the appointment by the municipal governing authorities or other local and private economic development groups of a number of trustees, as determined by the parties to the contract, to assist in the management of the district. In like manner, any economic or industrial development foundation or private economic development group may enter into a contract with the board of supervisors of the county or jointly with the board of supervisors of the county and municipal governing authorities providing for the contribution of funds by the economic or industrial development foundation or private economic development group to the economic development district and providing for the appointment by the officials or governing board of the foundation of a number of trustees, as determined by the parties to the contract, to assist in the management of the district.

(2) Any economic development district established under this section may, when suitable office space is not otherwise available, purchase and acquire title to real estate within the district and make any improvements thereon to provide the office space it considers necessary for efficient operation of such district. Provided, however, that no contract or agreement for the exclusive listing, sale or representation for sale of publicly owned property shall be entered into by such economic development districts with any real estate broker or brokers.

(3)(a) Any economic development district established under this section shall have the authority to acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the county or counties comprising such district for the development, use and operation of industrial parks or other industrial development purposes. The district is further authorized and empowered to engage in works of internal improvement therefor including, but not limited to, construction or contracting for the construction of streets, roads, railroads, spur tracks, site

improvements, water, sewerage, drainage, pollution control and other related facilities necessary or required for industrial development purposes or the development of industrial park complexes; to acquire, purchase, install, lease, construct, own, hold, equip, control, maintain, use, operate and repair other structures and facilities necessary and convenient for the planning, development, use, operation and maintenance of an industrial park or parks or for other industrial development purposes, including, but not limited to, utility installations, elevators, compressors, warehouses, buildings and air, rail and other transportation terminals and pollution control facilities.

(b) Contracts for the construction, improvement, equipping or furnishing of an industrial site and improvements thereon as authorized in this section shall be entered into upon the basis of public bidding under Section 31-7-1 et seq.

(4) For the development of such projects, the board of supervisors of any county that establishes an economic development district under this section or that establishes an economic development district in cooperation with one or more other counties, or municipalities or other local and private economic groups, may, upon receipt of a resolution duly adopted by the trustees of such district, issue, secure and manage its bonds in the manner prescribed by Sections 19-9-5, 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15, 19-9-17, 19-9-19, 19-9-21, 19-9-23, 19-9-25 and 19-9-29. Such bonds shall be sold in accordance with the provisions of Section 31-19-25. The full faith, credit and resources of the county shall be irrevocably pledged for the payment of the principal of and interest on the bonds issued under this section. Any income derived from the sale or lease of the property authorized to be acquired under this section shall be applied in one or more of the following manners: (a) the retirement of bonds authorized to be issued under this section; (b) further improvement or development of such industrial parks or other related industrial development activities; or (c) payment into the general fund of the county to be used for any lawful purpose. Any amounts so paid into the general fund shall be included in the computation of total receipts and subject to the restrictions of Section 27-39-321. The board of supervisors may covenant with or for the benefit of the registered owners of any bonds issued under this section with respect to the application of any or all of such income and shall, by resolution adopted before or promptly after receipt of any such income, determine, in its discretion subject only to the restrictions set forth above and any covenants made to or for the benefit of any registered owners of bonds issued under this section, the manner in which such income shall be applied.

The bonds authorized by this section and the income therefrom shall be exempt from all taxation in the State of Mississippi; however, any lessee or purchaser shall not be exempt from ad valorem taxes on industrial sites and improvements thereon unless otherwise provided by the general laws of this state, and purchases required to establish the project and financed by bond proceeds shall not be exempt from taxation in the State of Mississippi.

(5) Economic development districts established under this section are authorized and empowered:

(a) To sell, lease, trade, exchange or otherwise dispose of industrial sites or rail lines situated within industrial parks to individuals, firms or corporations, public or private, for industrial and warehouse use, as well as the Mississippi Military Department or Mississippi National Guard for military use, upon such terms and conditions, and for such considerations, with such safeguards as will best promote and protect the public interest, convenience and necessity, and to execute deeds, leases, contracts, easements and other legal instruments necessary or convenient therefor. Any industrial lease may be executed by the district upon such terms and conditions and for such monetary rental or other considerations as may be found to be in the best interest of the public, upon an order or resolution being spread upon the minutes of the district authorizing same.

(b) To sue and be sued in their own name.

(c) To fix and prescribe fees, charges and rates for the use of any water, sewerage, pollution control or other facilities constructed and operated in connection with an industrial park or parks and to collect same from persons, firms and corporations using the same for industrial, warehouse and related purposes and are further empowered to deny or terminate such services for nonpayment of said fees, charges or rates by the users of said services.

(d) To employ engineers, attorneys, accountants, consultants, licensed real estate brokers and appraisers, and such executive and administrative personnel as shall be reasonably necessary to carry out the duties and authority authorized by this section with funds available for such purposes. Such districts may also contribute money directly to the development and cost of operation of any industrial development foundation or other private economic development group in the county.

(6) Any county board of supervisors authorized to issue bonds under this section is hereby authorized, either separately or jointly with the governing authority of any municipality within the county, to acquire, enlarge, expand, renovate or improve an existing building or buildings located in the county or municipality and to issue bonds for such purpose in the manner provided by this section.

(7) Economic development districts established under the provisions of a local and private act enacted before July 1, 1997, are authorized and empowered to employ engineers, attorneys, accountants, consultants, licensed real estate brokers and appraisers, and such executive and administrative personnel as shall be reasonably necessary to carry out the duties and authority authorized by this section, or by such local and private act, with funds available for such purposes.

(8) The enumeration of any specific rights and powers contained in this section where followed by general powers shall not be construed in a restrictive sense, but rather in as broad and comprehensive a sense as possible to effectuate the purposes of this section.

HISTORY: Codes, 1942, § 2911.3; Laws, 1960, ch. 187.5; Laws, 1962, ch. 254,

§§ 1-5; 976, ch. 439; Laws, 1978, ch. 451, § 1; Laws, 1983, ch. 539; Laws, 1984, ch. 495, § 13; Laws, 1985, ch. 441, § 1; reenacted and amended, 1985, ch. 474, § 22; Laws, 1986, ch. 304; Laws, 1986, ch. 438, § 7; Laws, 1986, ch. 458, § 17; Laws, 1987, ch. 483, § 12; Laws, 1988, ch. 442, § 9; Laws, 1988, ch. 458; Laws, 1989, ch. 537; Laws, 1990, ch. 518, § 9; Laws, 1991, ch. 618, § 9; Laws, 1992, ch. 491 § 10; Laws, 1993, ch. 425, § 1; Laws, 1994, ch. 423, § 1; Laws, 1997, ch. 492, § 1, eff from and after July 1, 1997; Laws, 2019, ch. 333, § 1, eff from and after July 1, 2019; brought forward without change, Laws, 2019, ch. 363, § 4, eff from and after July 1, 2019.

Joint Legislative Committee Note — Section 1 of Chapter 333, Laws of 2019, effective July 1, 2019 (approved March 15, 2019), amended this section. Section 4 of Chapter 363, Laws of 2019, effective July 1, 2019 (approved March 21, 2019), brought this section forward without change. Since Section 4 of Chapter 363 made no changes to the section text, there is nothing to be integrated, and the section as set out above reflects the language of Section 1 of Chapter 333, Laws of 2019.

Amendment Notes — The first 2019 amendment (ch. 333) inserted "as well as the Mississippi Military Department or Mississippi National Guard for military use" in (5)(a).

The second 2019 amendment (ch. 363) brought the section forward without change.

OPINIONS OF THE ATTORNEY GENERAL

Planning and Development Districts are either public entities or instrumentalities of political subdivisions of the state and, as such, are subject to audit by the State Auditor. McLeod, Nov. 26, 2003, A.G. Op. 03-0573.

§ 19-5-105. Cleaning private property; notice to property owner; hearing; lien; cleaning certain perpetual care cemetery property; notice; hearing; application for reimbursement for costs of cleanup from perpetual care cemetery trust fund.

(1) To determine whether property or a parcel of land located within a county is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, the board of supervisors of any county is authorized and empowered to conduct a hearing on its own motion, or upon the receipt of a petition requesting the board of supervisors to act signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, within reasonable proximity of any property alleged to be in need of cleaning, or within seven hundred fifty (750) feet of the precise location of the alleged menace situated on any parcel of land which is located in a populated area or in a housing subdivision and alleged to be in need of cleaning.

Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at the

county courthouse or another place in the county where such notices are posted.

The notice required by this subsection (1) shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the board of supervisors to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing, if notice is posted on the property or parcel of land and at the county courthouse or another place in the county where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this subsection (1) shall be recorded in the minutes of the board of supervisors in conjunction with the hearing required by this subsection.

If at such hearing the board of supervisors shall in its resolution adjudicate such parcel of land in its then condition to be a menace to the public health and safety of the community, the board of supervisors may, if the owner not do so himself, proceed to have the land cleaned by cutting weeds, filling cisterns, and removing rubbish, dilapidated fences, outside toilets, dilapidated buildings and other debris, and draining cesspools and standing water. Thereafter, the board of supervisors may at its next regular meeting by resolution adjudicate the actual cost of cleaning the land and may also impose a penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty shall become an assessment against the property. The "cost assessed against the property" means either the cost to the county of using its own employees to do the work or the cost to the county of any contract executed by the county to have the work done, and administrative costs and legal costs of the county.

A county may reenter the property or parcel of land to maintain cleanliness without further notice of hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land. The expense of cleaning the property shall not exceed an aggregate amount of Twenty Thousand Dollars ($20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The board of supervisors may assess the same penalty each time the property or land is cleaned as otherwise provided in this subsection (1).

The penalty provided in this subsection (1) shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a county clean a parcel owned by the State of Mississippi without first giving notice.

The assessment authorized by this subsection (1) shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the county

shall, upon order of the board of supervisors, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent taxes. Furthermore, the property owner whose land has been sold pursuant to this subsection (1) shall have the same right of redemption as now provided by law for the sale of lands for delinquent taxes. All decisions rendered under the provisions of this subsection may be appealed in the same manner as other appeals from county boards.

(2)(a) If private property or a parcel of land located within a county is a perpetual care cemetery subject to Section 41-43-1 et seq., the board of supervisors of the county may proceed pursuant to the same provisions of subsection (1) of this section used to determine whether a property is a public health menace to instead determine if the perpetual care cemetery and all structures on the cemetery are not being properly maintained and have become detrimental to the public health and welfare. A perpetual care cemetery that is "not being properly maintained and has become detrimental to the public health and welfare" means a perpetual care cemetery that shows signs of neglect, including, without limitation, the unchecked growth of vegetation, repeated and unchecked acts of vandalism, unusable entrances and exits, excess rubbish or debris, or the disintegration of grave markers or boundaries. Upon notice and opportunity to be heard as provided in subsection (1) of this section, the board of supervisors of the county may adjudicate the property or parcel of land in its then condition to be not properly maintained and detrimental to the public health and welfare, and if the owner does not do so itself, may proceed to clean the property or parcel of land as provided in subsection (1) of this section. When cleaning the property or parcel of land of a perpetual care cemetery pursuant to this subsection (2), the penalty or penalties provided in subsection (1) of this section shall not be assessed against owners of the perpetual care cemeteries.

(b) The board of supervisors of a county that cleans property or parcel of land of a perpetual care cemetery pursuant to this subsection (2) may make application to the Secretary of State for an order directing the trustee of the perpetual care cemetery trust fund to release accrued interest or principal of the trust fund sufficient to reimburse the county for only the actual cleanup costs incurred by the county. The application to the Secretary of State shall include a statement by the county that all of the requirements of this section have been met.

(c) If the Secretary of State is satisfied that the notice and hearing requirements of this section have been met, and that the application for an order directing the trustee to release accrued interest of the perpetual care cemetery trust fund does not threaten the ability of the trust fund to provide for the care and maintenance of the cemetery, the Secretary of State may order the trustee to release up to the total amount of accrued interest of the trust fund in an amount sufficient to reimburse the county for the actual costs of cleanup performed by the county.

(d) If the Secretary of State is satisfied that the notice and hearing requirements of this section have been met, but makes a determination that the accrued interest of the perpetual care cemetery trust fund is insufficient to reimburse the county for the actual costs of cleanup performed by the county, or that an order to release accrued interest would threaten the ability of the trust fund to provide for the care and maintenance of the cemetery, the Secretary of State may consider an order directing the trustee to reimburse the county from the principal of the trust fund. If the Secretary of State determines that an order to the trustee to release principal from the trust fund will not threaten the solvency of the trust fund, the Secretary of State may order the trustee to release principal of the trust fund in an amount sufficient to reimburse the county for the actual costs of cleanup performed by the county.

(i) The Secretary of State may not order the trustee to release an amount of more than fifteen percent (15%) of principal of the trust fund to reimburse the county for the actual costs of cleanup performed by the county.

(ii) The provisions of this section may be utilized no more than once in a four-year period.

HISTORY: Laws, 1983, ch. 459; Laws, 1996, ch. 332, § 1; Laws, 2012, ch. 366, § 1, eff from and after July 1, 2012; Laws, 2021, ch. 452, § 1, eff from and after July 1, 2021.

WATER, SEWER, GARBAGE DISPOSAL, AND FIRE PROTECTION DISTRICTS

Sec.

§ 19-5-151. Incorporation of districts authorized.

OPINIONS OF THE ATTORNEY GENERAL

Under Sections 19-5-151 and 41-59-51, Fire Protection and EMS Districts are two separate and distinct entities and may not be created as one entity. Hatten, August 14, 1995, A.G. Op. #95-0529.

A sewer district is a public corporation and a body politic and as such its records are public records. However, any records which constitute the work product of an attorney or attorney-client privileged records are exempt from the Mississippi public Records Act. Cobb, Apr. 16, 2004, A.G. Op. 04-0170.

§ 19-5-165. District as public corporation; transfer of assets and liabilities of rural water association to newly created water district.

OPINIONS OF THE ATTORNEY GENERAL

A sewer district is a public corporation and a body politic and as such its records are public records. However, any records which constitute the work product of an attorney or attorney-client privileged records are exempt from the Mississippi public Records Act. Cobb, Apr. 16, 2004, A.G. Op. 04-0170.

§ 19-5-167. Board of commissioners; appointment; terms; general powers and duties.

(1) Except as otherwise provided in this section, the powers of each district shall be vested in and exercised by a board of commissioners consisting of five (5) members to be appointed by the board of supervisors. Upon their initial appointment, one (1) of the commissioners shall be appointed for a term of one (1) year; one (1) for a term of two (2) years; one (1) for a term of three (3) years; one (1) for a term of four (4) years; and one (1) for a term of five (5) years; thereafter, each commissioner shall be appointed and shall hold office for a term of five (5) years. Any vacancy occurring on a board of commissioners shall be filled by the board of supervisors at any regular meeting of the board of supervisors, and the board of supervisors shall have the authority to fill all unexpired terms of any commissioner or commissioners. Notwithstanding the appointive authority herein granted to the board of supervisors, its legal and actual responsibilities, authority and function, subsequent to the creation of any district, shall be specifically limited to the appointive function and responsibilities outlined in Sections 19-5-179, 19-5-189 and 19-5-191, except that with fire protection districts, the board of supervisors shall have authority for dissolving, redefining and reconfiguring of such districts as may be appropriate to ensure the most appropriate and efficient fire protection coverage for the county's citizens. The operation, management, abolition or dissolution of such district, and all other matters in connection therewith, shall be vested solely and only in the board of commissioners to the specific exclusion of the board of supervisors, and the abolition, dissolution or termination of any district shall be accomplished only by unanimous resolution of the board of commissioners, except that with fire protection districts, the board of supervisors shall have authority for the dissolving, redefining and reconfiguring of such districts when determined appropriate. However, if any area within the boundaries of a fire protection district created under Section 19-5-151 et seq., is annexed by a municipality, a reduction of the boundaries of the district to exclude such annexed area may be accomplished by the adoption of a resolution by a majority vote of the board of commissioners of that fire protection district. The county board of supervisors which has a fire protection district created under Section 19-5-151 et seq., may dissolve, redefine and reconfigure such district and, under Section 19-5-215 et seq., may create a fire

protection grading district consisting of the same boundaries as the previously existing fire protection district or having amended boundaries as determined appropriate by the board of supervisors. Petition and election requirements of Sections 19-5-217 through 19-5-227 shall not apply where the board of supervisors dissolves a fire protection district and creates a fire protection grading district under this section. Except as otherwise provided herein, such board of supervisors or commissioners shall have no power, jurisdiction or authority to abolish, dissolve or terminate any district while the district has any outstanding indebtedness of any kind or character, unless arrangements are made for the assumption of any outstanding indebtedness by the subsequent district or by the county. If a fire protection district is dissolved in accordance with this subsection, the board of supervisors may continue to levy the same millage as was being levied within the boundaries of the previous fire protection district before its dissolution provided that a fire protection grading district is created, in accordance with Section 19-5-215 et seq.

(2) The board of supervisors of the incorporating county may consolidate such fire protection districts for administrative purposes. The board of supervisors shall conduct a public hearing to determine the public's interest. Following such a hearing, the board may create a consolidated commission consisting of the participating districts for administrative purposes. Such districts then shall dissolve their respective boards of commissioners, transferring all records to the consolidated board of commissioners. A consolidated board of commissioners consisting of not less than five (5) members shall be appointed with equal representation from each participating district. Any commissioners appointed to a consolidated fire protection district commission must comply with eligibility requirements as authorized in Section 19-5-171. In the event that a consolidated fire protection district commission consists of an even number of members, the chairman elected as authorized by Section 19-5-169 shall vote only in the event of a tie. General powers and duties of commissioners and commissions and other related matters as defined in Sections 19-5-151 through 19-5-207 shall apply to the entire area contained in the consolidating fire protection districts as described in the resolutions incorporating the fire protection districts as well as to subsequent annexations.

(3) If the creation of the district is initiated in accordance with Section 19-5-153(3), the powers of the district shall be vested in and exercised by a board of commissioners selected in the following manner:

(a) Upon creation of the district, the board of directors of the former nonprofit, nonshare corporation shall serve as the board of commissioners of the newly created water district for a period not to exceed sixty (60) days. The initial commissioners shall be subject to the requirements of Section 19-5-171, except the requirement for executing a bond. If an initial commissioner fails to meet a requirement of Section 19-5-171 as provided in this section, the board of supervisors shall appoint a member to fill that vacancy on the board of commissioners.

(b) In the resolution creating a district initiated in accordance with Section 19-5-153(3), the board of supervisors shall direct the existing board

of directors of the rural water association to create within the district five (5) posts from which commissioners shall be elected. The board of supervisors shall designate the positions to be elected from each post as Post 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at-large post composed of the entire district. Within sixty (60) days following creation of the district, the board of supervisors shall call an election. Such election shall be held and conducted by the election commissioners in accordance with the general laws governing elections. The election commissioners shall determine which of the qualified electors of the county reside within the district and only those electors shall be entitled to vote in the election. Notice of the election setting forth the time, place or places and the purpose of the election shall be published by the clerk of the board of supervisors in the manner provided in Section 19-5-155.

The initial elected commissioners shall be elected to a term of office expiring on December 31 of the year in which the next succeeding general election for statewide officials is held. After the initial term of office, commissioners shall be elected to four-year terms. Vacancies shall be filled by the procedure set forth in Section 23-15-839.

(4) For any water and sewer district located within the corporate limits of a municipality that was incorporated on or after January 2012, the powers of the district shall be vested in and exercised by a board of commissioners consisting of five (5) members, each to be appointed by the governing authority of such municipality, one (1) member to be appointed from each municipal ward in the city. Each commissioner shall be appointed and shall hold office for a term of five (5) years. Any vacancy occurring on the board of commissioners shall be filled by the governing authority of the municipality at any regular meeting. Appointments to fill vacancies in unexpired terms of office shall be for the remaining unexpired term of office for such position.

HISTORY: Codes, 1942, § 2998.7-22; Laws, 1972, ch. 536, § 2; Laws, 1992, ch. 387, § 15; Laws, 1999, ch. 304, § 4; Laws, 2010, ch. 452, § 2; Laws, 2015, ch. 303, § 1; Laws, 2017, ch. 342, § 1, eff from and after July 1, 2017.

Amendment Notes — The 2015 amendment added (4); and made a minor stylistic change.

The 2017 amendment, in (1), added the exception at the end of the fourth and fifth sentences, rewrote the seventh sentence, which read: "The board of commissioners of a fire protection district created under Section 19-5-151 et seq., by unanimous resolution, may dissolve such district and, under Section 19-5-215 et seq., may create a fire protection grading district consisting of the same boundaries as the previously existing fire protection district," substituted "board of supervisors" for "board of commissioners" in the eighth sentence, in the ninth sentence, inserted "supervisors or" and substituted "unless arrangements are made for the assumption of any outstanding indebtedness by the subsequent district or by the county" for "unless such dissolution or termination is accomplished under the provisions of Section 19-5-207," and in the last sentence, inserted "previous," and deleted "with identical boundaries as the previously existing fire protection district" from the end; in (2), rewrote the first sentence, which read: "The board of supervisors of the incorporating county, upon receipt of a unanimous resolution from two (2) or more boards of commissioners of duly created fire protection districts,

may consolidate such districts for administrative purposes," and in the second sentence, deleted "Upon receipt of unanimous resolutions requesting consolidation" from the beginning, and made a related stylistic change.

JUDICIAL DECISIONS

1. In general.

Circuit court properly interpreted Miss. Code Ann. § 19-5-167 in determining a county board of supervisors possessed the responsibility to determine whether appellant removed himself from the district of his appointment as a commissioner of a county water district. Lamey v. Bd. of Supervisors, 46 So. 3d 878, 2010 Miss. App. LEXIS 596 (Miss. Ct. App. 2010).

§ 19-5-171. Board of commissioners; eligibility; bond; oath; compensation.

JUDICIAL DECISIONS

1. In general.

Substantial evidence supported a factual determination by a county board of supervisors that appellant no longer possessed the qualifications to continue as a commissioner of a county water district because appellant no longer resided in the district, as required by Miss. Code Ann. § 19-5-171(1); thus, a vacancy existed. Lamey v. Bd. of Supervisors, 46 So. 3d 878, 2010 Miss. App. LEXIS 596 (Miss. Ct. App. 2010).

§ 19-5-177. Additional powers of districts.

JUDICIAL DECISIONS

ANALYSIS

2. Extension of services beyond boundaries of district.
3. Fee for fire protection services.

2. Extension of services beyond boundaries of district.

Although appellant argued he had not removed himself from a district because he lived within the one-mile zone authorized by Miss. Code Ann. § 19-5-177(k) and received water services from the county water district, a circuit court properly determined appellant had vacated his office as commissioner of the county water district by moving out of the county because § 19-5-177(k) authorized the district to extend its services, not its legal boundaries. Lamey v. Bd. of Supervisors, 46 So. 3d 878, 2010 Miss. App. LEXIS 596 (Miss. Ct. App. 2010).

3. Fee for fire protection services.

Diamondhead Fire Protection District's (DFPD) fee for fire-protection services was permissible since the DFPD provided a valuable service by having fire and other emergency services available to respond to an emergency; the owners' claim that they received a service from the fire department only if the department responded to an emergency call and that the assessed fees were really for anticipatory services was rejected. Alfonso v. Diamondhead Fire Prot. Dist., 122 So. 3d 54, 2013 Miss. LEXIS 393 (Miss. 2013), cert. denied, 572 U.S. 1116, 134 S. Ct. 2301, 189 L. Ed. 2d 175, 2014 U.S. LEXIS 3474 (U.S. 2014).

§ 19-5-189. Tax levies.

(1)(a) Except as otherwise provided in subsection (2) of this section for levies for fire protection purposes and subsection (3) of this section for

certain districts providing water service, the board of supervisors of the county in which any such district exists may, according to the terms of the resolution, levy a special tax, not to exceed four (4) mills annually, on all of the taxable real property in such district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the district or for the retirement of any bonds issued by the district, or for both.

(b) The proceeds derived from two (2) mills of the levy authorized herein shall be included in the ten percent (10%) increase limitation under Section 27-39-321, and the proceeds derived from any additional millage levied under this subsection in excess of two (2) mills shall be excluded from such limitation for the first year of such additional levy and shall be included within such limitation in any year thereafter.

(2)(a) In respect to fire protection purposes, the board of supervisors of the county in which any such district exists on July 1, 1987, may levy a special tax annually, not to exceed the tax levied for such purposes for the 1987 fiscal year on all of the taxable real property in such district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Any such district for which no taxes have been levied for the 1987 fiscal year may be treated as having been created after July 1, 1987, for the purposes of this subsection.

(b) In respect to fire protection purposes, the board of supervisors of the county in which any such district is created after July 1, 1987, may, according to the terms of the resolution of intent to incorporate the district, levy a special tax not to exceed two (2) mills annually on all of the taxable real property in such district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both; however, the board of supervisors may increase the tax levy under this subsection as provided for in paragraph (c) of this subsection.

(c) The tax levy under this subsection may be increased only when the board of supervisors has determined the need for additional revenues. Prior to levying a tax increase under this paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the increase in the tax levy and the purposes for which the proceeds of the additional tax will be used. The board of supervisors shall have a copy of the resolution published once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. If no newspaper is published in the county, then notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in the county. A copy of the resolution shall also be posted at three (3) public places in the county for a period of at least twenty-one (21) days during the time of

its publication in a newspaper. If more than twenty percent (20%) of the qualified electors of the district shall file with the clerk of the board of supervisors, within twenty-one (21) days after adoption of the resolution of intent to increase the tax levy, a petition requesting an election on the question of the increase in tax levy, then and in that event such increase shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose within the district. Notice of such election shall be given, the election shall be held and the result thereof determined, as far as is practicable, in the same manner as other elections are held in the county. If an election results in favor of the increase in the tax levy or if no election is required, the board of supervisors may increase the tax levy. The board of supervisors, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to have the tax imposed.

(d) Notwithstanding any provisions of this subsection to the contrary, in any county bordering on the Gulf of Mexico and the State of Louisiana, the board of supervisors may levy not to exceed four (4) mills annually on all the taxable real property within any fire protection district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Prior to levying the tax under this paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the tax levy and the purposes for which the proceeds of the tax will be used. The board of supervisors shall have a copy of the resolution published once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. If no newspaper is published in the county, then notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in the county. A copy of the resolution shall also be posted at three (3) public places in the county for a period of at least twenty-one (21) days during the time of its publication in a newspaper. If more than twenty percent (20%) of the qualified electors of the district shall file with the clerk of the board of supervisors, within twenty-one (21) days after adoption of the resolution of intent to levy the tax, a petition requesting an election on the question of the levy of such tax, then and in that event such tax levy shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose within the district. Notice of such election shall be given, the election shall be held and the result thereof determined, as far as is practicable, in the same manner as other elections are held in the county. If an election results in favor of the tax levy or if no election is required, the board of supervisors may levy such tax. The board of supervisors, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to have the tax imposed.

(e) Notwithstanding any provisions of this subsection to the contrary, in any county bordering on the Mississippi River in which legal gaming is conducted and in which U.S. Highway 61 intersects with Highway 4, the board of supervisors may levy a special tax not to exceed five (5) mills annually on all the taxable real and personal property within any fire protection district, except for utilities as defined in Section 77-3-3(d)(i) and (iii), the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Before levying the tax under this paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the tax levy and the purposes for which the proceeds of the tax will be used. The board of supervisors shall have a copy of the resolution published once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. If no newspaper is published in the county, then notice shall be given by publishing the resolution for the required time in some newspaper having general circulation in the county. A copy of the resolution shall also be posted at three (3) public places in the county for a period of at least twenty-one (21) days during the time of its publication in a newspaper. If more than twenty percent (20%) of the qualified electors of the district shall file with the clerk of the board of supervisors, within twenty-one (21) days after adoption of the resolution of intent to levy the tax, a petition requesting an election of the questions of the levy of such tax, then and in that event such tax levy shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose within the district. Notice of such election shall be given, the election shall be held and the result thereof determined, as far as is practicable, in the same manner as other elections are held in the county. If an election results in favor of the tax levy or if no election is required, the board of supervisors may levy such tax. The board of supervisors, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to have the tax imposed.

(f) Any taxes levied under this subsection shall be excluded from the ten percent (10%) increase limitation under Section 27-39-321.

(3) For any district authorized under Section 19-5-151(2), the board of supervisors shall not levy the special tax authorized in this section.

HISTORY: Codes, 1942, § 2998.7-33; Laws, 1972, ch. 536, § 13; Laws, 1986, ch. 445; Laws, 1987, ch. 507, § 15; Laws, 1988, ch. 371; Laws, 1991, ch. 459, § 1; Laws, 1997, ch. 424, § 1; Laws, 1999, ch. 304, § 7; Laws, 2016, ch. 458, § 1, eff from and after passage (approved May 5, 2016).

Editor's Notes — Laws of 2016, ch. 458, § 2 provides:

"SECTION 2. Increases in the special tax authorized to be levied by boards of supervisors under the provisions of Section 19-5-189(2) prior to the effective date of this act [May 5, 2016] are hereby ratified, approved and confirmed."

Amendment Notes — The 2016 amendment, in (2), substituted "however, the board of supervisors may increase the tax levy under this subsection as provided for in paragraph (c) of this subsection" for "however, if the district is created pursuant to a mandatory election called by the board of supervisors, in lieu of a petitioned election under Section 19-5-157, the board of supervisors may levy a special tax annually not to exceed an amount to be determined by the board of supervisors and stated in the notice of such election. The mandatory election authorized herein shall be conducted in accordance with paragraph (c) of this subsection. The special tax may be increased if such increase is authorized by the electorate pursuant to an election conducted in accordance with paragraph (c) of this subsection" in (b), and rewrote (c) to provide that prior to levying a tax increase, the board of supervisors must adopt a resolution declaring its intention to levy the tax and describing the amount of the increase and the purposes for which the proceeds are to be used, and to provide a process by which qualified electors of the district can request an election on the question of the tax increase.

EMERGENCY TELEPHONE SERVICE (911)

§ 19-5-303. Definitions [Repealed effective July 1, 2024].

HISTORY: Laws, 1987, ch. 310, § 2; Laws, 1993, ch. 536, § 2; Laws, 1998, ch. 531, § 7; reenacted without change, Laws, 2001, ch. 569, § 1; reenacted without change, Laws, 2002, ch. 626, § 1; reenacted without change, Laws, 2003, ch. 367, § 1; reenacted and amended, Laws, 2007, ch. 593, § 1; reenacted and amended, Laws, 2010, ch. 560, § 1; reenacted without change, Laws, 2014, ch. 387, § 1, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 381 § 1, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 1, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 1. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-313. Emergency telephone service charges; use of excess funds [Repealed effective July 1, 2024].

HISTORY: Laws, 1987, ch. 310, § 7; Laws, 1990, ch. 469, § 1; Laws, 1991, ch. 457, § 1; Laws, 1991, ch. 542, § 1; Laws, 1992, ch. 309 § 1; Laws, 1993, ch. 536, § 5; Laws, 1998, ch. 531, § 8; reenacted without change, Laws, 2001, ch. 569, § 2; reenacted without change, Laws, 2002, ch. 626, § 3; reenacted without change, Laws, 2003, ch. 367, § 2; reenacted without change, Laws, 2007, ch. 593, § 2; reenacted and amended, Laws, 2010, ch. 560, § 2; reenacted without change, Laws, 2014, ch. 387, § 2, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 381, § 2, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 2, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 2. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.
The 2021 amendment reenacted the section without change.

§ 19-5-319. Automatic number and location data base information; taped records of calls; confidentiality; nonidentifying records to be made available to public [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 11; Laws, 2000, ch. 564, § 1; reenacted without change, Laws, 2003, ch. 367, § 3; reenacted without change, Laws, 2007, ch. 593, § 3; reenacted without change, Laws, 2010, ch. 560, § 3; reenacted without change, Laws, 2014, ch. 387, § 3, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 381, § 3, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 3, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 3. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.
The 2018 amendment reenacted the section without change.
The 2021 amendment reenacted the section without change.

ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE (E-911)

Sec.
19-5-343. Collection and remittance of prepaid wireless E911 charges; no liability for provider or seller of prepaid wireless telecommunications service.

§ 19-5-331. Definitions [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 1; reenacted without change, Laws, 2001, ch. 569, § 3; reenacted and amended, Laws, 2002, ch. 626, § 4; reenacted without change, Laws, 2003, ch. 367, § 4; reenacted without change, Laws, 2007, ch. 593, § 4; reenacted without change, Laws, 2010, ch. 560, § 4; reenacted without change, Laws, 2014, ch. 387, § 4, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 381, § 4, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 4, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 4. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.
The 2018 amendment reenacted the section without change.
The 2021 amendment reenacted the section without change.

§ 19-5-333. Commercial Mobile Radio Service Board; membership; powers and duties; service charges; reimbursement of expenses [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 2; reenacted without change, Laws, 2001, ch.

569, § 4; reenacted and amended, Laws, 2002, ch. 626, § 5; reenacted and amended, Laws, 2003, ch. 367, § 5; reenacted without change, Laws, 2007, ch. 593, § 5; Laws, 2010, ch. 560, § 5; reenacted without change, Laws, 2014, ch. 387, § 5, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 381, § 5, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 5, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 5. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-335. Collection of service charges; remittance to board; handling and processing costs; administration costs; registration of CMRS providers [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 3; reenacted without change, Laws, 2001, ch. 569, § 5; reenacted and amended, Laws, 2002, ch. 626, § 6; reenacted without change, Laws, 2003, ch. 367, § 6; reenacted without change, Laws, 2007, ch. 593, § 6; reenacted without change, Laws, 2010, ch. 560, § 6; reenacted without change, Laws, 2014, ch. 387, § 6, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 381, § 6, eff from and after July1, 2018; reenacted without change, Laws, 2021, ch. 331, § 6, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 6. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-337. Confidentiality of proprietary information [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 4; reenacted without change, Laws, 2001, ch. 569, § 6; reenacted without change, Laws, 2002, ch. 626, § 7; reenacted without change, Laws, 2003, ch. 367, § 7; reenacted without change, Laws, 2007, ch. 593, § 7; reenacted without change, Laws, 2010, ch. 560, § 7; reenacted without change, Laws, 2014, ch. 387, § 7, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 381, § 7, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 7, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 7. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-339. Requirement to provide enhanced 911 service; prerequisites [Repealed effective July 1, 2024].

HISTORY: Laws, 1998, ch. 531, § 5; reenacted without change, Laws, 2001, ch. 569, § 7; reenacted without change, Laws, 2002, ch. 626, § 8; reenacted without change, Laws, 2003, ch. 367, § 8; reenacted without change, Laws, 2007, ch. 593, § 8; reenacted without change, Laws, 2010, ch. 560, § 8; reenacted without change, Laws, 2014, ch. 387, § 8, eff from and after July 1, 2014; reenacted without change by Laws of 2018, ch. 381 § 8, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 8, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 8. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-341. Use of wireless emergency telephone service; restrictions; offense; penalties [Repealed effective July 1, 2024].

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 9. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-343. Collection and remittance of prepaid wireless E911 charges; no liability for provider or seller of prepaid wireless telecommunications service.

(1) **Definitions.** For purposes of this section, the following terms shall have the following meanings:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(b) "Department" means the Mississippi Department of Revenue.

(c) "Prepaid wireless E911 charge" means the charge that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(e) "Provider" means a person who provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(f) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(g) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

(h) "Wireless telecommunications service" means commercial mobile radio service as defined by Section 20.3 of Title 47 of the Code of Federal Regulations, as amended.

(2) **Collection and remittance of E911 charge.**

(a) Amount of Charge. The prepaid wireless E911 charge shall be One Dollar ($1.00) per retail transaction.

(b) Collection of charge. The prepaid wireless E911 charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 charge shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) Application of charge. For purposes of paragraph (b) of this subsection, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of Section 27-65-19(1)(d)(v)3.c.

(d) Liability for charge. The prepaid wireless E911 charge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 charges that the seller collects from consumers as provided in subsection (3), including all such charges that the seller is deemed to have collected where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(e) Exclusion of E911 charge from base of other taxes and fees. The amount of the prepaid wireless E911 charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) Resetting of charge. The prepaid wireless E911 charge shall be increased or reduced, as applicable, upon any change to the state E911 charge on postpaid wireless telecommunications service under Section 19-5-333. Such increase or reduction shall be effective on the effective date of the change to the postpaid charge or, if later, the first day of the first calendar month to occur at least sixty (60) days after the enactment of the change to the postpaid charge. The department shall provide not less than thirty (30) days of advance notice of such increase or reduction on the commission's website.

(3) **Administration of E911 charge.**

(a) Time and manner of payment. Prepaid wireless E911 charges collected by sellers shall be remitted to the department at the times and in the manner provided by Chapter 65 of Title 27 with respect to sales and use taxes. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to Chapter 65 of Title 27.

(b) Seller administrative deduction. A seller shall be permitted to deduct and retain two percent (2%) of prepaid wireless E911 charges that are collected by the seller from consumers.

(c) Audit and appeal procedures. The audit and appeal procedures applicable to Chapter 65 of Title 27 shall apply to prepaid wireless E911 charges.

(d) Exemption documentation. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions for sales and use tax purposes under Chapter 65 of Title 27.

(e) Disposition of remitted charges. The department shall pay all remitted prepaid wireless E911 charges over to the Commercial Mobile Radio Service Emergency Telephone Services Board within thirty (30) days of receipt, for use by the board in accordance with the purposes permitted by Section 19-5-333, after deducting an amount, not to exceed two percent (2%) of collected charges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 charges. The amount of the distribution shall be determined by dividing the population of the communications district by the state population, and then multiplying that quotient times the total revenues remitted to the department after deducting the amount authorized in this subsection.

(4) **No Liability.**

(a) No liability regarding 911 service. No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number, address, location or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

(b) No provider of prepaid wireless service shall be liable for damages to any person or entity resulting from or incurred in connection with the provider's provision of assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any investigation or other law enforcement activity by such law enforcement officer that the provider believes in good faith to be lawful.

(c) Incorporation of postpaid 911 liability protection. In addition to the protection from liability provided by paragraphs (a) and (b) of this subsec-

tion, each provider and seller shall be entitled to the further protection from liability, if any, that is provided to providers and sellers of wireless telecommunications service that is not prepaid wireless telecommunications service pursuant to Section 19-5-361.

(5) **Exclusivity of prepaid wireless E911 charge.** The prepaid wireless E911 charge imposed by this section shall be the only E911 governmental funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

(6) Notwithstanding any other method or formula of collection and/or distribution of the emergency telephone service charges as specified in this section and as such collection and/or distribution method or formula is specified in this section, a provider may collect and distribute the said charges in any other manner applicable to satisfy the intent and requirements of this section.

HISTORY: Laws, 2010, ch. 560, § 13; Laws, 2013, ch. 537, § 5, eff from and after July 1, 2014.

Editor's Notes — Laws of 2013, ch. 537, § 6, as amended by Laws of 2014, ch. 530, § 41, effective from and after July 1, 2014, provides:

"SECTION 6. (1) Except as otherwise provided in subsection (2) of this section, nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"(2) The exemptions authorized in Section 1 of this act shall apply to all sales billed by the provider from and after July 1, 2014."

Amendment Notes — The 2013 amendment substituted "27-65-19(1)(d)(v)3.c" for "27-65-19(1)(e)(v)3.c" in (2)(c).

EMERGENCY TELECOMMUNICATIONS; BOARD; STANDARDS AND TRAINING; BASIC AND ENHANCED 911

Sec.

§ 19-5-353. Certification requirement for telecommunicators; minimum standards of training; suspension, cancellation, or recall of certificate; reprimands; notice, hearing and appeal; reapplication; penalties for employment of telecommunicator not duly qualified; other training not precluded [Repealed effective July 1, 2024].

(1) The initial minimum standard of training for local public safety and 911 telecommunicators shall be determined by the Board of Emergency Telecommunications Standards and Training. All courses approved for minimum standards shall be taught by instructors certified by the course originator as instructors for such courses.

(2) The minimum standards may be changed at any time by the Board of Emergency Telecommunications Standards and Training, but shall always include at least two (2) hours of training related to handling complaints and/or calls of human trafficking and commercial sexual exploitation of children as defined in Section 43-21-105, communicating with such victims and requiring the local public safety and 911 telecommunicators to contact the Department of Child Protection Services when human trafficking or commercial sexual exploitation is suspected.

(3) Changes in the minimum standards may be made upon request from any bona fide public safety, emergency medical or fire organization operating within the State of Mississippi. Requests for change shall be in writing submitted to either the State Law Enforcement Training Academy; the State Fire Academy; the Mississippi Chapter of the Associated Public Safety Communications Officers, Incorporated; the Mississippi Chapter of the National Emergency Number Association; the Mississippi State Board of Health, Emergency Medical Services Division; the Mississippi Justice Information Center; the Mississippi Sheriff's Association; the Mississippi Fire Chief's Association; the Mississippi Association of Chiefs of Police; or Mississippians for Emergency Medical Services.

(4) The minimum standards in no way are intended to restrict or limit any additional training which any department or agency may wish to employ, or any state or federal required training, but to serve as a basis or foundation for basic training.

(5) Persons in the employment of any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator on July 1, 1993, shall have three (3) years to be certified in the minimum standards courses provided they have been employed by such agency for a period of more than one (1) year prior to July 1, 1993.

(6) Persons having been employed by any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator for less than one (1) year prior to July 1, 1993, shall be required to have completed all the requirements for minimum training standards, as set forth in Sections 19-5-351 through 19-5-361, within one (1) year from July 1, 1993. Persons certified on or before

July 1, 1993, in any course or courses chosen shall be given credit for these courses, provided the courses are still current and such persons can provide a course completion certificate.

(7) Any person hired to perform the duties of a telecommunicator in any public safety, fire, 911 PSAP or emergency medical agency after July 1, 1993, shall complete the minimum training standards as set forth in Sections 19-5-351 through 19-5-361 within twelve (12) months of their employment or within twelve (12) months from the date that the Board of Emergency Telecommunications Standards and Training shall become operational.

(8) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

(a) The certificate was issued by administrative error;

(b) The certificate was obtained through misrepresentation or fraud;

(c) The holder has been convicted of any crime involving moral turpitude;

(d) The holder has been convicted of a felony; or

(e) Other due cause as determined by the board.

When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a telecommunicator, notice and opportunity for a hearing shall be provided. Any telecommunicator aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Any telecommunicator whose certification has been cancelled pursuant to Sections 19-5-351 through 19-5-361 may reapply for certification but not sooner than two (2) years after the date on which the order of the board canceling such certification became final.

(9) Any state agency, political subdivision or "for-profit" ambulance, security or fire service company that employs a person as a telecommunicator who does not meet the requirements of Sections 19-5-351 through 19-5-361, or that employs a person whose certificate has been suspended or revoked under provisions of Sections 19-5-351 through 19-5-361, is prohibited from paying the salary of such person, and any person violating this subsection shall be personally liable for making such payment.

(10) These minimum standards and time limitations shall in no way conflict with other state and federal training as may be required to comply with established laws or regulations.

HISTORY: Laws, 1993, ch. 536, § 8; Laws, 2001, ch. 490, § 1; Laws, 2003, ch. 374, § 1; reenacted and amended, Laws, 2004, ch. 442, § 1; Laws, 2006, ch. 355, § 1; Laws, 2010, ch. 325, § 1; Laws, 2013, ch. 404, § 1; Laws, 2016, ch. 391, § 1, eff from and after July 1, 2016; Laws, 2018, ch. 381, § 12, eff from and after July 1, 2018; Laws, 2019, ch. 420, § 8, eff from and after July 1, 2019; reenacted without change, Laws, 2021, ch. 331, § 10, eff from and after July 1, 2021.

Editor's Notes — The effective date provision in Laws of 2013, ch. 404 was

numbered as § 2 in error. The number should be § 3.

For repeal of this section, see § 19-5-371.

Amendment Notes — The 2013 amendment extended the repealer provision in (11) from "July 1, 2013" to "July 1, 2016."

The 2016 amendment extended the date of the repealer for the section by substituting "July 1, 2019" for "July 1, 2016" in (11).

The 2018 amendment deleted (11), which read: "This section shall stand repealed on July 1, 2019."

The 2019 amendment added "but shall always include at least...when human trafficking or commercial sexual exploitation is suspected" at the end of (2); and made a minor grammatical change in (3).

The 2021 amendment reenacted the section without change.

§ 19-5-357. Telephone subscriber service charge to fund training; collection of charge; special fund; use of monies in fund; training expenses [Repealed effective July 1, 2024].

(1) From and after July 1, 1993, a service charge of Five Cents (5¢) shall be placed on each subscriber service line within the State of Mississippi. This service charge shall apply equally to both private and business lines and shall apply to all service suppliers operating within the State of Mississippi. This subscriber service charge level shall be reviewed periodically to determine if the service charge level is adequate or excessive, and adjustments may be made accordingly.

(2) Every billed service user shall be liable for any service charge imposed under this section until it has been paid to the service supplier. The duty of the service supplier to collect any such service charge shall commence upon the date of its implementation. Any such minimum standards telephone service charge shall be added to, and may be stated separately in, the billing by the service supplier to the service user.

(3) The service supplier shall have no obligation to take any legal action to enforce the collection of any emergency telephone service charge. However, the service supplier shall annually provide the Board of Emergency Telecommunications Standards and Training with a list of the amount uncollected, together with the names and addresses of those service users who carry a balance that can be determined by the service supplier to be nonpayment of such service charge. The service charge shall be collected at the same time as the tariff rate in accordance with the regular billing practice of the service supplier. Good faith compliance by the service supplier with this provision shall constitute a complete defense to any legal action which may result from the service supplier's determination of nonpayment and/or the identification of service users in connection therewith.

(4) The amounts collected by the service supplier attributable to the minimum standards telephone service charge shall be deposited monthly into a special fund hereby created in the State Treasury. The amount of service charge collected each month by the service supplier shall be remitted to the special fund no later than sixty (60) days after the close of the month. A return,

in such form as prescribed by the Department of Revenue, shall be filed with the Department of Revenue, together with a remittance of the amount of service charge collected payable to the special fund. The service supplier shall maintain records of the amount of service charge collected for a period of at least three (3) years from date of collection. From the gross receipts to be remitted to the special fund, the service supplier shall be entitled to retain as an administrative fee, an amount equal to one percent (1%) thereof. This service charge is a state fee and is not subject to any sales, use, franchise, income, excise or any other tax, fee or assessment, and shall not be considered revenue of the service supplier for any purpose. All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of such chapter, and all other duties and requirements imposed upon taxpayers, shall apply to all persons liable for fees under the provisions of this chapter, and the Commissioner of Revenue shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Mississippi Sales Tax Law except where there is a conflict, then the provisions of this chapter shall control.

(5) The proceeds generated by the minimum standards service charge shall primarily be used by the board pursuant to legislative appropriation to fund the minimum standards training program for public safety telecommunicators within the State of Mississippi. These funds shall be applied on a first-come first-served basis, which shall be determined by the date of application. All city, county and state public safety telecommunicators, including those employed by city and/or county supported ambulance services and districts, shall be eligible to receive these funds to meet minimum standards training requirements. No "for-profit" ambulance, security or fire service company operating in the private sector shall be qualified to receive these minimum standards training funds unless the company is on contract with a local government to provide primary emergency response. Law enforcement officers, fire and emergency medical personnel who are used as part-time or "fill-in" telecommunicators shall also be eligible to receive funding for this minimum standards training, provided they serve at least eight (8) hours per month as a telecommunicator. However, emergency medical personnel who are used as part-time or "fill-in" telecommunicators and are employed by any for-profit ambulance company operating in the private sector shall be eligible to receive funding for the minimum standards training, provided they serve at least twenty (20) hours per week as a telecommunicator. These funds may also be expended by the Board of Emergency Telecommunications Standards and Training to administer the minimum standards program for such things as personnel, office equipment, computer software, supplies and other necessary expenses.

(6) The Board of Emergency Telecommunications Standards and Training shall be authorized to reimburse any public safety agency or emergency medical service for meals, lodging, travel, course fees and salary during the time spent training, upon successful completion of such course. Funds may

also be expended to train certain individuals to become certified instructors of the various courses included in these minimum standards in order to conduct training within the State of Mississippi.

(7) If the proceeds generated by the minimum standards service charge exceed the amount of monies necessary to fund the service, the Board of Emergency Telecommunications Standards and Training may authorize such excess funds to be available for advanced training, upgraded training and recertification of instructors. Any funds remaining at the close of any fiscal year shall not lapse into the State General Fund but shall be carried over to the next fiscal year to be used as a beginning balance for the fiscal requirements of such year.

HISTORY: Laws, 1993, ch. 536, § 10; Laws, 1998, ch. 458, § 3; Laws, 2001, ch. 490, § 2; Laws, 2003, ch. 374, § 2; reenacted and amended, Laws, 2004, ch. 442, § 2; Laws, 2006, ch. 355, § 2; Laws, 2010, ch. 325, § 2; Laws, 2013, ch. 404, § 2; Laws, 2016, ch. 391, § 2, eff from and after July 1, 2016; Laws, 2018, ch. 381, § 13, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 11, eff from and after July 1, 2021.

Editor's Notes — The effective date provision in Laws of 2013, ch. 404 was numbered as § 2 in error. The number should be § 3.

For repeal of this section, see § 19-5-371.

Amendment Notes — The 2013 amendment substituted "Department of Revenue" for "State Tax Commission" and "Tax Commission" in the third sentence and "Commissioner of Revenue" for "Tax Commissioner" in the seventh sentence in (4); extended the repealer provision in (8), from "July 1, 2013" to "July 1, 2016."

The 2016 amendment extended the date of the repealer for the section by substituting "July 1, 2019" for "July 1, 2016" in (8).

The 2018 amendment deleted (8), which read: "This section shall stand repealed on July 1, 2019."

The 2021 amendment reenacted the section without change.

§ 19-5-359. Requirement of service suppliers and other parties to provide access to basic or enhanced 911 service; time to comply [Repealed effective July 1, 2024].

HISTORY: Laws, 1993, ch. 536, § 11; Laws, 1994, ch. 321, § 1; Laws, 1994, ch. 484, § 1; Laws, 1998, ch. 531, § 9; reenacted without change, Laws, 2001, ch. 569, § 9; reenacted without change, Laws, 2002, ch. 626, § 10; reenacted without change, Laws, 2003, ch. 367, § 10; reenacted without change, Laws, 2007, ch. 593, § 10; reenacted without change, Laws, 2010, ch. 560, § 10; reenacted without change, Laws, 2014, ch. 387, § 10, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 381, § 10, eff from and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 12, eff from and after July 1, 2021.

Editor's Notes — For repeal of this section, see § 19-5-371.

This section was reenacted without change by Laws of 2021, ch. 331, § 12. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

§ 19-5-361. 911 service suppliers entitled to same limitations of liability as provided to state, state agencies and local governments [Repealed effective July 1, 2024].

HISTORY: Laws, 1993, ch. 536, § 12; Laws, 1998, ch. 531, § 10; reenacted without change, Laws, 2001, ch. 569, § 10; reenacted without change, Laws, 2002, ch. 626, § 11; reenacted without change, Laws, 2003, ch. 367, § 11; reenacted without change, Laws, 2007, ch. 593, § 11; reenacted and amended, Laws, 2010, ch. 560, § 11; reenacted without change, Laws, 2014, ch. 387, § 11, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 381, § 11, eff and after July 1, 2018; reenacted without change, Laws, 2021, ch. 331, § 13, eff from and after July 1, 2021.

Editor's Notes — This section was reenacted without change by Laws of 2021, ch. 331, § 13. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

For repeal of this section, see § 19-5-371.

Amendment Notes — The 2014 amendment reenacted the section without change.

The 2018 amendment reenacted the section without change.

The 2021 amendment reenacted the section without change.

REPEAL OF CERTAIN PROVISIONS

Sec.

19-5-371. Repeal of Sections 19-5-303, 19-5-313, 19-5-319, 19-5-331, 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-353, 19-5-357, 19-5-359, and 19-5-361.

§ 19-5-371. Repeal of Sections 19-5-303, 19-5-313, 19-5-319, 19-5-331, 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-353, 19-5-357, 19-5-359, and 19-5-361.

Sections 19-5-303, 19-5-313, 19-5-319, 19-5-331, 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-353, 19-5-357, 19-5-359 and 19-5-361 shall stand repealed from and after July 1, 2024.

HISTORY: Laws, 2003, ch. 367, § 12; reenacted and amended, Laws, 2007, ch. 593, § 12; Laws, 2010, ch. 560, § 12; Laws, 2014, ch. 387, § 12, eff from and after July 1, 2014; Laws, 2018, ch. 381, § 14, eff from and after July 1, 2018; Laws, 2021, ch. 331, § 14, eff from and after July 1, 2021.

Amendment Notes — The 2014 amendment extended the repealer provision from "July 1, 2014" to "July 1, 2018."

The 2018 amendment inserted "19-5-353, 19-5-357"; and extended the date of the repealer for §§ 19-5-303, 19-5-313, 19-5-319, 19-5-331, 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-353, 19-5-357, 19-5-359, and 19-5-361, by substituting "July 1, 2021" for "July 1, 2018."

The 2021 amendment extended the date of the repealer for §§ 19-5-303, 19-5-313, 19-5-319, 19-5-331, 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-353, 19-5-357, 19-5-359, and 19-5-361 by substituting "July 1, 2024" for "July 1, 2021."

CHAPTER 7.
PROPERTY AND FACILITIES

Sec.

§ 19-7-5. Disposal of personal property.

The board of supervisors shall have the power to sell and dispose of any personal property and real property belonging to the county or any subdivision thereof according to the uniform personal property and real property disposal requirements for local governments in Section 17-25-25. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

HISTORY: Codes, 1942, § 2925; Laws, 1932, ch. 189; Laws, 1936, ch. 286; Laws, 1942, ch. 193; Laws, 2000, ch. 593, § 1; Laws, 2003, ch. 483, § 3; Laws, 2012, ch. 499, § 2; Laws, 2013, ch. 364, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in the first paragraph, inserted "and real property" twice following "personal property" in the first sentence, and added the second sentence.

§ 19-7-25. Providing books and bookcase for courtroom; maintenance of books in electronic format.

(1) The board of supervisors of each county shall provide and have placed in the courtroom of the courthouse a suitable bookcase, with doors and lock, of sufficient capacity to hold not less than two hundred law books, in which the Mississippi Reports, digests thereof, statutes of the state, and other books belonging or furnished to the county, shall be kept. The board of supervisors shall purchase any volume of the reports, digests and statutes which may be lost or destroyed, and shall have bound all of such books as need to be rebound for preservation, all of which shall be paid for out of the county treasury. Additional bookcases shall be furnished when necessary.

(2) In addition to the board of supervisors maintaining printed books or physical books as described under subsection (1) of this section, the board of supervisors may also maintain such books in an electronic format.

HISTORY: Codes, 1892, § 298; 1906, § 317; Hemingway's 1917, § 3690; 1930, § 223; 1942, § 2898; Laws, 2020, ch. 390, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment added (2); and made minor stylistic changes.

§ 19-7-31. Law libraries.

(1)(a) The board of supervisors of each county in the state shall have power, by an appropriate order or orders on its minutes, to establish and maintain in the county courthouse or other suitable public building adjacent or near thereto, a public county law library under such rules, regulations and supervision as it may from time to time ordain and establish, and to that end, the board may accept gifts, grants, donations or bequests of money, furniture, fixtures, books, documents, maps, plats or other property suitable for that purpose.

(b) The board of supervisors shall have power to exchange or sell duplicate volumes or sets of any such books or furniture, and in case of sale, to invest the proceeds in other suitable books or furniture. The board may also purchase or lease from time to time additional books, furniture, or equipment for the public law library.

(c) The board of supervisors may also maintain the books prescribed under this section in an electronic format.

(2) For the purpose of providing suitable quarters for the public law library, the board of supervisors may, in its discretion, expend such sums as may be deemed necessary or proper for that purpose, and may also employ a suitable person as librarian and pay the law librarian such salary as the board, in its discretion, may determine. The board may employ additional librarians or other employees on either a part-time or full-time basis and may pay these additional employees as the board, in its discretion, may determine. The board of supervisors, in their discretion, may contract with the county or municipal library for any staff or facilities as they deem necessary for the overall management and operation of the county law library. The board of supervisors may contract with the State Law Library for law library services that may be offered by the State Law Library.

(3) If the public law library is established, all books, documents, furniture and other property then belonging to the county library, as provided for in Section 19-7-25, shall be transferred to and become part of the public law library, and all books, documents and publications donated by the state to the county library shall also become a part of the public law library. In that case, Sections 19-7-25 and 19-25-65, relating to the county library, shall be superseded in that county for as long as the public law library is maintained in the county.

(4) The board of supervisors of any county that establishes a public law library, in its discretion, may levy, by way of resolution, additional court costs not exceeding Two Dollars and Fifty Cents ($2.50) per case for each case, both civil and criminal, filed in the chancery, circuit and county courts or any of these in the county, and may levy, by way of resolution, additional court costs not exceeding One Dollar and Fifty Cents ($1.50) per case for each case, both civil and criminal, filed in the justice courts of the county, for the support of the

library authorized in the county. If the additional court costs authorized in this section are levied, the clerk or judge of those courts shall collect those costs for all cases filed in his court and forward same to the chancery clerk, who shall deposit the same in a special account in a county depository for support and maintenance of the library, and the chancery clerk shall be accountable for those funds. However, no such levy shall be made against any cause of action the purpose of which is to commit any person with mental illness, or alcoholic or narcotic addiction to any institution for custodial or medical care, and no such tax shall be collected under this subsection on any cause of action that the proper clerk handling same deems to be in its very nature charitable and in which cause the clerk has not collected his own legal fees.

(5) To accomplish the purposes of this section, the board of supervisors may enter into such arrangement or arrangements with the county bar association of any such county as may seem advisable for the care and operation of the law library, and the board may receive and consider, from time to time, such recommendations as the bar association may deem appropriate regarding the library.

(6) The board of supervisors of each county in which there are two (2) judicial districts, in its discretion, may maintain a law library in each judicial district. In those counties the board, in its discretion, may pay from the county general fund or from the special fund authorized in this section all the costs authorized in this section, provided that the board shall not spend in each judicial district less than the amount of the special court costs authorized in this section and collected in each such district.

(7) The governing authorities of any municipality, in their discretion, by resolution duly adopted and entered on their official minutes, may levy additional court costs not exceeding One Dollar and Fifty Cents ($1.50) per case for each conviction in the municipal court of the municipality, for the support and maintenance of the county law library in the county within which the municipality is located. The additional costs shall be collected by the clerk of the court, forwarded to the chancery clerk of the county for deposit in a special account in the county depository, and expended for support and maintenance of the county law library in the same manner and in accordance with the same procedure as provided for costs similarly collected in the chancery, circuit, county and justice courts of the county.

(8) Funds collected under this section may also be used for electronic and technological purposes related to the law library, including, but not limited to, computers, hardware, software, internet, online subscription services, legal research tools and electronic records.

HISTORY: Codes, 1942, §§ 2898-01 to 2898-05, 2899; Laws, 1934 ch. 239; Laws, 1948, ch. 268; Laws, 1962, ch. 242; Laws, 1966 ch. 292, § 1; Laws, 1968, ch. 320, §§ 1-5; Laws, 1972, ch. 330, §§ 1, 2; Laws, 1973, ch. 316, § 1; Laws, 1974, ch. 424; Laws, 1975, ch. 379; Laws, 1976, ch. 460; Laws, 1977, ch. 408, § 1; Laws, 1985, ch. 514, § 2; Laws, 1992, ch. 312, § 1; Laws, 2003, ch. 377, § 1; Laws, 2008, ch. 442, § 9, eff from and after July 1, 2008; Laws, 2020, ch. 390, § 3, eff from and after July 1, 2020; Laws, 2021, ch. 368, § 1, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment added (8).

§ 19-7-39. Maintenance and repair of public or private nonprofit cemeteries in certain counties.

The board of supervisors of any county is authorized, in its discretion, to maintain and repair any abandoned public or private nonprofit cemetery located within the county but located outside the corporate boundary of any municipality in the county. The expense of such maintenance may be paid from any available county funds. For the purposes of this section, the term "public or private nonprofit cemetery" includes an abandoned community, religious or fraternal cemetery; however, the term does not include family burial grounds or a for-profit perpetual care cemetery that is subject to Sections 41-43-31 through 41-43-57. "Abandoned cemetery" means a cemetery which shows signs of neglect, including, without limitation, the unchecked growth of vegetation, repeated and unchecked acts of vandalism, or the disintegration of grave markers or boundaries and for which no person can be found who is legally responsible and financially capable of the upkeep of such cemetery.

The board of supervisors of any county is authorized to accept, in the name of the county, title by deed to any cemetery located within the county but located outside the corporate boundary of any municipality in the county which, due to age, abandonment of graves by private owners or for other good cause, is not being properly maintained or repaired and thereby have become detrimental to the public health and welfare. No acceptance of title by deed shall be valid unless a motion thereof shall be made at a regular or special meeting of the board, adopted by a majority of the board's membership, and entered upon the minutes. No county funds or other public funds shall be expended by the board for the purpose of purchasing such cemetery. The board shall have the power to maintain, repair, enlarge, fence or otherwise improve any cemetery, title to which has been accepted by the board.

HISTORY: Laws, 1975, ch. 395, eff from and after passage (approved March 24, 1975); Laws, 2019, ch. 359, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, in the first paragraph, rewrote the first sentence, which read: "The board of supervisors of any county bordering on the Gulf of Mexico having two judicial districts and where U. S. Highways 90 and 49 intersect is authorized to maintain and repair any public or private nonprofit cemetery located within the county but located outside the corporate boundary of any municipality in the county," and added the last two sentences.

CHAPTER 9.

FINANCE AND TAXATION

UNIFORM SYSTEM FOR ISSUANCE OF COUNTY BONDS

§ 19-9-5. Limitation of indebtedness.

No county shall hereafter issue bonds secured by a pledge of its full faith and credit for the purposes authorized by law in an amount which, when added to the then outstanding bonds of such county, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

However, any county in the state which shall have experienced washed-out or collapsed bridges on the public roads of the county for any cause or reason may hereafter issue bonds for bridge purposes as now authorized by law in an amount which, when added to the then outstanding general obligation bonds of such county, shall not exceed either (a) twenty percent (20%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

Provided further, in computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness heretofore or hereafter issued, for the construction of hospitals, ports or other capital improvements which are payable primarily from the net revenue to be generated from such hospital, port or other capital improvement, which revenue shall be pledged to the retirement of such bonds or other evidences of indebtedness, together with the full faith and credit of the county. However, in no case shall any county contract any indebtedness payable in whole or in part from proceeds of ad valorem taxes which, when added to all of the outstanding general obligation indebtedness, both bonded and floating, shall exceed either (a) twenty percent (20%) of the assessed value of all taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater. Nothing herein contained shall be construed to apply to contract obligations in any form heretofore or hereafter incurred by any county which are subject to annual appropriations therefor, or to bonds heretofore or hereafter issued by any county for school purposes, or to bonds issued by any county under the provisions of Sections 57-1-1 through 57-1-51, or to any indebtedness incurred under Section 55-23-8, or to bonds issued under Section 57-75-37 or to any other indebtedness incurred under 57-75-37(4).

HISTORY: Codes, 1942, § 2926-03; Laws, 1932, ch. 235; Laws, 1950, ch. 241, § 3; Laws, 1962, ch. 245, § 1; Laws, 1974, ch. 495; Laws, 1982, ch. 347, § 1; Laws, 1985, ch. 476, § 1; Laws, 1987, ch. 424, § 1; Laws, 1989, ch. 499, § 2; Laws, 1992, ch. 499 § 2; Laws, 1995, ch. 526, § 1; Laws, 1996, ch. 419, § 1; Laws, 2001, ch. 602, § 11; Laws, 2005, ch. 315, § 11; Laws, 2016, 1st Ex Sess, ch. 1, § 19, eff from and after passage (approved Feb. 8, 2016).

Amendment Notes — The 2016 1st Extraordinary Session added "or to any other indebtedness incurred under 57-75-37(4)" at the end of the last paragraph.

§ 19-9-27. Borrowing in anticipation of taxes.

JUDICIAL DECISIONS

1. Limitations.

Board of supervisors did not exceed statutory limits in obtaining a tax anticipation note because it was not required to borrow only from estimated ad valorem taxes, and the borrowing in anticipation of tax statute was broad enough to allow counties to borrow against total anticipated ad valorem tax revenues from the preceding annual tax levy. Moreover, an in pari materia argument was unavailing in light of testimony that the numbers utilized by the board were based on the total ad valorem revenues in the general operating fund from the preceding annual tax levies. Russell v. Humphreys Cnty. Bd. of Supervisors (In re Validation of Tax Anticipation Note), 187 So. 3d 1025, 2016 Miss. LEXIS 138 (Miss. 2016).

§ 19-9-28. Borrowing in anticipation of receipt of funds from confirmed federal or state grants or loans.

Cross References — Maximum interest rate on interim financing in anticipation of a confirmed grant or loan described in this section and § 21-33-326, see § 75-17-107.

CHAPTER 11.

COUNTY BUDGET

Sec.

§ 19-11-14. Clerk of board of supervisors to record into county accounting system year-end adjusting accounting entries recommended by external financial auditor; board to spread upon minutes reasons that any recommended entries were not recorded.

In order for the county's financial records to fairly represent the financial condition of the county as of the date of the external audit, the clerk of the board of supervisors or, where applicable, the county administrator shall record into the county's accounting system the year-end adjusting accounting entries recommended by the county's external independent financial auditors selected by the Office of the State Auditor. If the clerk of the board of supervisors or, where applicable, the county administrator declines to make any year-end adjusting accounting entries recommended by the external financial auditors, the board of supervisors shall spread upon the board's minutes the reasons why the recommended year-end accounting entries were

not entered into the county's accounting system and the impact that not including the recommended year-end accounting entries in the county's financial records will have regarding the fair representation of the financial condition of the county.

HISTORY: Laws, 2021, ch. 471, § 3, eff from and after July 1, 2021.

§ 19-11-17. Budget estimates not to be exceeded; liability therefor; exemption for unfunded employee retirement or pension funds.

No expenditures shall be made, or liabilities incurred, or warrants issued, in excess of the budget estimates as finally determined by the board of supervisors, or as thereafter revised under the provisions of this chapter. The board of supervisors shall not approve any claim, and the clerk shall not issue any warrant for any expenditures in excess of the budget estimates thus made and approved by the board of supervisors, or as thereafter revised under the provisions of this chapter, except upon the order of a court of competent jurisdiction, or for an emergency as hereinafter provided. Any violation of the provisions of this section shall make the members of the board of supervisors voting for same, and the surety upon their official bonds, liable for the full amount of the claim allowed, the contract entered into, or the public work provided for, and the State Auditor, as the head of the State Department of Audit, shall be authorized to sue for the recovery of the sum or sums so voted. Provided, however, that the term "budget estimates" for purposes of personal liability of the members of the board of supervisors under this section shall not include any unfunded liability for county employee retirement or pension funds. Nothing in this section shall diminish any responsibility of the members of the board of supervisors to fund any employee retirement or pension plans, or any liability as a result of any failure to fund such plans as otherwise required by law.

HISTORY: Codes, 1930, § 3973; 1942, § 9118-10; Laws, 1922, ch. 225; Laws, 1950, ch. 247, § 10, eff from and after August 31, 1950; Laws, 2018, ch. 434, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment added the last two sentences.

§ 19-11-27. Certain expenditures for last year of term limited.

No board of supervisors of any county shall expend from, or contract an obligation against, the budget estimates for road and bridge construction, maintenance and equipment, made and published by it during the last year of the term of office of such board, between the first day of October and the first day of the following January, a sum exceeding one-fourth (1/4) of such item of the budget made and published by it, except in cases of emergency. The clerk of any county is prohibited from issuing any warrant contrary to the provisions of this section. No board of supervisors nor any member thereof shall buy any

machinery or equipment in the last six (6) months of their or his term unless or until he has been elected at the general election of that year. The provisions of this section shall not apply to (i) until January 1, 2020, projects of any type that receive monies from the Local System Bridge Replacement and Rehabilitation Program, the Emergency Road and Bridge Repair Fund, the 2018 Transportation and Infrastructure Improvement Fund or the Gulf Coast Restoration Fund and (ii) to expenditures during calendar year 2019 on deficient bridges in the State Aid Road System or the Local System Road Program that have a sufficiency rating of less than fifty (50) or to a contract, lease or lease-purchase contract executed pursuant to the bidding requirements in Section 31-7-13 and approved by a unanimous vote of the board. Such unanimous vote shall include a statement indicating the board's proclamation that the award of the contract is essential to the efficiency and economy of the operation of the county government. On and after July 1, 2021, through June 30, 2023, the provisions of this section shall not apply to projects of any type that receive monies from the Emergency Road and Bridge Repair Fund.

HISTORY: Codes, 1930, § 3977; 1942, § 9118-15; Laws, 1924, ch. 216; Laws, 1950, ch. 247, § 15; Laws, 1984, ch. 480, § 1; Laws, 2000, ch. 428, § 1; Laws, 2003, ch. 539, § 1, eff from and after July 1, 2003; Laws, 2018, 1st Ex Sess, ch. 1, § 12, eff from and after passage (approved August 29, 2018); Laws, 2019, ch. 475, § 2, eff from and after passage (approved April 16, 2019); Laws, 2021, ch. 478, § 20, eff from and after July 1, 2021.

Editor's Notes — Laws of 2018, 1st Extraordinary Session, ch. 1, §§ 14 and 15, effective from and after August 29, 2018, provide:

"SECTION 14. This act shall be known and may be cited as the Mississippi Infrastructure Modernization Act of 2018.

"SECTION 15. Sections 5 and 6 of this act shall take effect and be in force from and after October 1, 2018, the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2018 1st Extraordinary Session amendment, effective August 29, 2018, inserted "to expenditures during calendar year 2019 on deficient bridges in the State Aid Road System or the Local System Road Program that have a sufficiency rating of less than fifty (50) or" in the next-to-last sentence.

The 2019 amendment, effective April 16, 2019, inserted "(i) until January 1, 2020, projects of any type...and (ii) to" in the fourth sentence.

The 2021 amendment added the last sentence.

CHAPTER 13.

CONTRACTS, CLAIMS AND TRANSACTION OF BUSINESS WITH COUNTIES

IN GENERAL

Sec.

§ 19-13-22. Road maintenance agreements with certain taxpayers.

A county may, by resolution spread upon its minutes, enter into a road maintenance agreement with a taxpayer that is eligible for the reduced severance tax levied pursuant to Section 27-25-503(1)(c) or 27-25-703(1)(b).

HISTORY: Laws, 2013, ch. 533, § 7, eff from and after July 1, 2013.

CHAPTER 21.
CORONERS

MISSISSIPPI CORONER REORGANIZATION ACT

§ 19-21-105. Elected coroner required to attend Mississippi Forensics Laboratory and State Medical Examiner Death Investigation Training School; oath of office.

(1) Each coroner elected in the 1987 general election and thereafter shall attend the Mississippi Forensics Laboratory and State Medical Examiner Death Investigation Training School provided for in subsection (5) of Section 41-61-57, and shall successfully complete subsequent testing on the subject material prior to taking the oath of office. If the elected coroner fails to successfully complete the school and testing, he shall not be eligible to take the oath of office.

(2) Upon successful completion of the death investigation training school, the coroner shall take the oath of office, and he then shall be designated the chief county medical examiner or chief county medical examiner investigator, as provided in subsection (2) of Section 41-61-57, and shall perform the duties of such office as required by law.

HISTORY: Laws, 1986, ch. 459, § 3; Laws, 2015, ch. 452, § 1, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment substituted "Mississippi Forensics Laboratory" for "Mississippi Crime Laboratory" in the first sentence of (1).

CHAPTER 23.
COUNTY ATTORNEYS

§ 19-23-1. County prosecuting attorney.

OPINIONS OF THE ATTORNEY GENERAL

County prosecuting attorney may represent county in civil forfeiture proceedings; compensation to be paid to county attorney for such services would have to be included in county attorney's salary. Swayze Sept. 7, 1993, A.G. Op. #93-0533.

CHAPTER 25.
SHERIFFS

Sec.

§ 19-25-11. Arrest and confinement of sheriff.

JUDICIAL DECISIONS

1. In general.

Sheriff, rather than a circuit court, was to make hiring, firing, and compensation changes affecting bailiffs, as bailiffs were deputies of the sheriff. A circuit court order and opinion stating that bailiffs fell under the authority of the judiciary rather than the sheriff were void in part to the extent that they directly violated the Mississippi Constitution and statutory law. Lewis v. Hinds County Circuit Court, 158 So. 3d 1117, 2015 Miss. LEXIS 102 (Miss. 2015).

§ 19-25-13. Budgeting and financing of sheriffs' departments.

The sheriff shall, at the July meeting of the board of supervisors, submit a budget of estimated expenses of his office for the ensuing fiscal year beginning October 1 in such form as shall be prescribed by the Director of the State Department of Audit. The board shall examine this proposed budget and determine the amount to be expended by the sheriff in the performance of his duties for the fiscal year and may increase or reduce that amount as it deems necessary and proper.

The budget shall include amounts for compensating the deputies and other employees of the sheriff's office, for insurance providing protection for the sheriff and his deputies in case of disability, death and other similar coverage, for travel and transportation expenses of the sheriff and deputies, for feeding prisoners and inmates of the county jail, and for any other expenses that may be incurred in the performance of the duties of the office of sheriff. In addition, the budget shall include amounts for the payment of premiums on bonds and

insurance for the sheriff and his deputies which, in the opinion of the board of supervisors, are deemed necessary to protect the interests of the county or the sheriff and his deputies. The amounts may include official bonds and any bonds required of his deputies by the sheriff; liability insurance; insurance against false arrest charges; insurance against false imprisonment charges; theft, fire and other hazards insurance; and hospitalization insurance as provided for in Sections 25-15-101 and 25-15-103. The board may authorize the reimbursement of the sheriff and deputies for the use of privately owned automobiles or other motor vehicles in the performance of official duties at the rate provided by law for state officers and employees, or may authorize the purchase by the sheriff of such motor vehicles and such equipment as may be needed for operation of the sheriff's office, the vehicles and equipment to be owned by the county. In counties that have elected to purchase the motor vehicles and the equipment for the operation of the sheriff's office, if a sheriff or deputy shall be required in the performance of his official duties, in the event of an emergency, to use his privately owned automobile or other motor vehicle, the board of supervisors may, in its discretion, authorize the reimbursement for that use at the rate per mile provided by law for state officers and employees. This shall not be construed as giving an officer a choice of whether to use his own or the county's vehicle, but shall be construed so as not to penalize an officer who must use his own vehicle because the county's vehicle was not available.

The board of supervisors, in its discretion, may include in its annual budget for the sheriff's office an amount not to exceed One Thousand Dollars ($1,000.00), which may be expended by the sheriff to provide food, water and beverages for the sheriff, the sheriff's deputies, state, national and local law enforcement officers, emergency personnel, county employees and members of the general public who the sheriff requests to assist him and his office while in the performance of search and rescue missions, disasters or other emergency operations.

The board of supervisors may acquire one or more credit cards that may be used by the sheriff and his deputies to pay expenses incurred by them when traveling in or out of state in the performance of their official duties. The chancery clerk or county purchase clerk shall maintain complete records of all credit card numbers and all receipts and other documents relating to the use of those credit cards. The sheriff shall furnish receipts for the use of the credit cards each month to the chancery clerk or purchase clerk who shall submit a written report monthly to the board of supervisors, which report shall include an itemized list of all expenditures and use of the credit cards for the month, and the expenditures may be allowed for payment by the county in the same manner as other items on the claims docket. The issuance of a credit card to a sheriff or his deputy under the provisions of this section shall not be construed to authorize the sheriff or deputy sheriff to use the credit card to make any expenditure that is not otherwise authorized by law.

The board of supervisors is hereby authorized and empowered, in its discretion, to appropriate and pay a sum not to exceed One Thousand Dollars ($1,000.00) annually as a clothing allowance to each plainclothes investigator employed by the sheriff's office of that county. The board of supervisors of any county bordering on the Gulf of Mexico and having a population of more than thirty-one thousand seven hundred (31,700) but less than thirty-one thousand eight hundred (31,800) according to the 1990 Federal Census may appropriate and pay a sum not to exceed One Thousand Dollars ($1,000.00) annually as a clothing allowance to the administrator of the county jail.

The board of supervisors shall, at its first meeting of each quarter beginning on October 1, January 1, April 1 and July 1, appropriate a lump sum for the sheriff for the expenses of his office during the current quarter. The quarterly appropriation shall be one-fourth (1/4) of the amount approved in the annual budget unless the sheriff requests a different amount. Except in case of emergency, as provided in the county budget law, the appropriation for the quarter beginning in October of the last year of the sheriff's term shall not exceed one-fourth (1/4) of the annual budget.

The sheriff shall file a report of all expenses of his office incurred during the preceding month with the board of supervisors for approval at its regular monthly meeting in a form to be prescribed by the Director of the State Department of Audit, and upon filing thereof, and approval by the board, the clerk of the board shall issue warrants in payment thereof but not to exceed the budget appropriation for that quarter. Any appropriated funds that are unexpended at the end of the fiscal year shall remain in the county general fund.

The budget for the sheriff's office may be revised at any regular meeting by the board of supervisors. Upon recommendation of the sheriff, the board may at any regular meeting make supplemental appropriations to the sheriff's office.

Any fees previously required to be paid by a sheriff shall be paid by the board of supervisors by including the estimates therefor in the sheriff's budget. All fees and charges for services heretofore collected by sheriffs shall be collected by the sheriff and paid monthly into the general fund of the concerned county. However, any fees heretofore collected by those sheriffs from the county shall not be paid.

HISTORY: Codes, 1942, § 4232.5; Laws, 1968, ch. 369, § 8; Laws, 1972, ch. 385, § 1; Laws, 1988, ch. 363; Laws, 1989, ch. 542, § 1; Laws, 1990, ch. 421, § 1; Laws, 1991, ch. 518, § 1; Laws, 2007, ch. 508, § 1, eff from and after July 1, 2007; Laws, 2018, ch. 367, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in the fifth paragraph, substituted "One Thousand Dollars ($1,000.00)" for "Four Hundred Dollars ($400.00)" twice; and made minor stylistic changes throughout the section.

§ 19-25-19. Appointment, oath and compensation of deputy sheriffs.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Sheriff's liability for acts of deputy.

1. In general.

Sheriff, rather than a circuit court, was to make hiring, firing, and compensation changes affecting bailiffs, as bailiffs were deputies of the sheriff. A circuit court order and opinion stating that bailiffs fell under the authority of the judiciary rather than the sheriff were void in part to the extent that they directly violated the Mississippi Constitution and statutory law. Lewis v. Hinds County Circuit Court, 158 So. 3d 1117, 2015 Miss. LEXIS 102 (Miss. 2015).

2. Sheriff's liability for acts of deputy.

Sheriff qualified as a person with "authority to address the problem," and his knowledge of the alleged harassment was imputed to the County. Seibert v. Jackson County, 2015 U.S. Dist. LEXIS 102632 (S.D. Miss. Aug. 5, 2015).

§ 19-25-31. Riding bailiffs.

JUDICIAL DECISIONS

1. In general.

Circuit court judges' authority of appointment extended only to riding bailiffs who were compensated by a county. Lewis v. Hinds County Circuit Court, 158 So. 3d 1117, 2015 Miss. LEXIS 102 (Miss. 2015).

§ 19-25-35. Duty of sheriff to attend courts, jail committed persons, and to execute orders and decrees.

JUDICIAL DECISIONS

1. In general.

Sheriff, rather than a circuit court, was to make hiring, firing, and compensation changes affecting bailiffs, as bailiffs were deputies of the sheriff. A circuit court order and opinion stating that bailiffs fell under the authority of the judiciary rather than the sheriff were void in part to the extent that they directly violated the Mississippi Constitution and statutory law. Lewis v. Hinds County Circuit Court, 158 So. 3d 1117, 2015 Miss. LEXIS 102 (Miss. 2015).

§ 19-25-37. Duty of sheriff to execute and return process.

JUDICIAL DECISIONS

1. In general.

Circuit court abused its discretion in dismissing the citizen's mandamus petition and failing to compel the sheriff to execute process on public officials named as defendants in the citizen's public records action; the citizen had standing to seek mandamus and had a right to relief as he properly sought service of process, the sheriff was required by law to execute process, and the citizen had no other adequate remedy at law. Pryer v. Gates, 312 So. 3d 741, 2021 Miss. App. LEXIS 108 (Miss. Ct. App. 2021).

Circuit court abused its discretion in dismissing the citizen's mandamus peti-

tion and failing to compel the sheriff to execute process on public officials named as defendants in the citizen's public records action; the citizen had standing to seek mandamus and had a right to relief as he properly sought service of process, the sheriff was required by law to execute process, and the citizen had no other adequate remedy at law. Pryer v. Gates, 312 So. 3d 741, 2021 Miss. App. LEXIS 108 (Miss. Ct. App. 2021).

§ 19-25-65. Sheriff to serve as county librarian.

(1)(a) The sheriff shall be the custodian of the books other than record books belonging to the county, and he shall keep the Mississippi Department Reports, census reports, statutes of the state, the "Mississippi Reports," digests, and legislative journals assigned to his county in a suitable and safe bookcase in the courtroom of the courthouse. He shall keep them well bound in leather, or stiff boards with leather back and corners, to be paid for out of the county treasury on the order of the board of supervisors, and he shall preserve them in good condition.

(b) In addition to the sheriff maintaining printed books or physical books as described under paragraph (a) of this subsection, on the order of the board of supervisors, such books may also be maintained in an electronic format.

(2) The sheriff shall be fined Ten Dollars ($10.00) by the court, either circuit or chancery, as for a contempt, for each volume belonging to the county and which has passed into his custody that shall be out of the courtroom at any term of court. He shall also receive and preserve in the same way all books of every kind, maps, charts, and other like things that may be donated to the county by the state, the United States, from individuals or other sources. He shall not permit any of the books in his keeping to be carried out of the courthouse.

(3) The sheriff shall, in case of binding or rebinding of books belonging to the county, cause the statutes of the state to be labeled "Laws of Mississippi," and the year of their enactment shall appear thereon. If the reports and digests or code are rebound, they shall be labeled as they were originally.

(4) In his settlement with the clerk of the board of supervisors for the month of December of each calendar year, the sheriff shall file with the clerk a sworn itemized statement of the volumes of the Mississippi Reports on hand in the county library on the last business day of the month, and for all volumes missing since the settlement for the previous December the clerk shall debit the sheriff in his settlement at the rate of Four Dollars ($4.00) for each of the missing volumes.

HISTORY: Codes, 1892, §§ 4133, 4134; 1906, §§ 4685, 4686; Hemingway's 1917, §§ 3102, 3103; 1930, §§ 3332, 3333; 1942, §§ 4257, 4258; Laws, 1968, ch. 361, § 66, eff from and after January 1, 1972; Laws, 2020, ch. 390, § 2, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment designated the formerly undesignated first paragraph (1)(a) and the formerly undesignated second through fourth paragraphs (2) through (4); added (1)(b); in (2), substituted "The sheriff" for "He"; and made minor stylistic changes.

§ 19-25-69. Sheriff to have charge of courthouse, jail and protection of prisoners.

JUDICIAL DECISIONS

1. In general.

Sheriff, rather than a circuit court, was to make hiring, firing, and compensation changes affecting bailiffs, as bailiffs were deputies of the sheriff. A circuit court order and opinion stating that bailiffs fell under the authority of the judiciary rather than the sheriff were void in part to the extent that they directly violated the Mississippi Constitution and statutory law. Lewis v. Hinds County Circuit Court, 158 So. 3d 1117, 2015 Miss. LEXIS 102 (Miss. 2015).

OPINIONS OF THE ATTORNEY GENERAL

A sheriff has the authority, if he determines it reasonable and necessary, to exclude openly carried firearms from courthouse premises. Lance, June 13, 2013, 2013 Miss. AG LEXIS 111.

§ 19-25-71. Sheriff to serve as jailer; separate rooms by gender; training.

JUDICIAL DECISIONS

2. Rescission of contract.

Board of supervisors' capricious rescission of a caterer's contract for prisoner catering services was in error because it was arbitrarily based upon consideration of matters outside of the bid specifications; the board rescinded the award of the contract despite the caterer's compliance with bid requirements and certifications, and it based its decision upon the testimony of the sheriff, which lacked a credible basis upon which it could base its decision. Howell v. Bd. of Supervisors, 179 So. 3d 34, 2015 Miss. App. LEXIS 187 (Miss. Ct. App.), cert. denied, 178 So. 3d 729, 2015 Miss. LEXIS 566 (Miss. 2015).

§ 19-25-73. Feeding of prisoners; alternative methods of funding.

(1) In respect to the feeding of prisoners by the sheriff's office, the board of supervisors is authorized to choose one (1) of the following methods:

(a) It shall only contract with a local caterer or restaurant owner to bring in food for the prisoners, and the contract shall be awarded after taking bids as provided by law for other county contracts.

(b) The sheriff shall purchase, in the name of the county, all necessary food and related supplies to be used for feeding prisoners only in the county jail. All purchases of such food and supplies shall be invoiced to the county and placed on the claims docket of the board of supervisors for disposition in the same manner as all other claims against the county. All wages and other compensation for services rendered to the sheriff in connection with the feeding of prisoners shall be submitted to and approved by the board of supervisors as other wages or compensation paid to employees of the sheriff. The total expenditure for such purpose under this method shall not exceed

Fifteen Dollars ($15.00) per day per prisoner, except as provided in subsection (3) of this section. All payments and reimbursements from any source for the keeping of prisoners shall be received and paid into the general fund of the county.

(c) The board of supervisors may negotiate a contract with the board of trustees of the local public community hospital to bring in food for the prisoners.

(2) The board of supervisors may authorize the sheriff to maintain a bank account entitled "jail food allowance account" into which shall be deposited all receipts for feeding and keeping prisoners in the county jail, including payments from the board of supervisors at the rate not to exceed Fifteen Dollars ($15.00) per prisoner per day and all such receipts from municipalities, the United States and any other jurisdictions required to pay the cost of feeding or keeping prisoners contained in the jail. He shall maintain a receipts journal and a disbursements journal, in a form to be prescribed by the State Department of Audit, which will provide the information necessary to determine the actual cost of feeding the prisoners, which shall not exceed Fifteen Dollars ($15.00) per prisoner per day, except as provided in subsection (3) of this section. All costs and expenses for such feeding shall be paid from the jail food allowance account and supported by properly itemized invoices. Any funds accumulating in the jail food allowance account in excess of the monthly average expenditures, plus ten percent (10%) for contingencies, shall be paid into the county general fund at least once each calendar quarter.

(3) In the event that prisoners are housed in the county jail by any political subdivision of the state, the county may charge the political subdivision for housing, feeding and otherwise caring for such prisoners an amount not to exceed the payments provided under state law for the keeping in the county jail of persons committed, sentenced or otherwise placed under the custody of the Department of Corrections. Nothing in this section shall be construed to affect payments by the Department of Corrections set by state law for the keeping in the county jail of persons committed, sentenced or otherwise placed under the custody of the Department of Corrections.

HISTORY: Codes, 1942, § 4259.5; Laws, 1972, ch. 463, § 1; Laws, 1976, ch. 457, § 1; Laws, 1979, ch. 481; Laws, 1982, ch. 337; Laws, 1991, ch. 460, § 1, eff from and after July 1, 1991; Laws, 2019, ch. 371, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted "Fifteen Dollars ($15.00)" for "an amount equal to Six Dollars ($6.00)" in the next-to-last sentence of (1)(b); in (2), substituted "rate not to exceed Fifteen Dollars ($15.00)" for "rate of Six Dollars ($6.00)" in the first sentence and "Fifteen Dollars ($15.00)" for "Six Dollars ($6.00)" in the second sentence; and substituted "state law" for "Section 47-5-112, Mississippi Code of 1972" in the first and second sentences of (3).

JUDICIAL DECISIONS

1. Rescission of contract.

Board of supervisors' capricious rescission of a caterer's contract for prisoner catering services was in error because it

was arbitrarily based upon consideration of matters outside of the bid specifications; the board rescinded the award of the contract despite the caterer's compliance with bid requirements and certifications, and it based its decision upon the testimony of the sheriff, which lacked a credible basis upon which it could base its decision. Howell v. Bd. of Supervisors, 179 So. 3d 34, 2015 Miss. App. LEXIS 187 (Miss. Ct. App.), cert. denied, 178 So. 3d 729, 2015 Miss. LEXIS 566 (Miss. 2015).

§ 19-25-74. Feeding of prisoners; log of meals served.

In any event, regardless of which method in respect to the feeding of prisoners is selected by the board of supervisors, the sheriff shall maintain a log, showing the name of each prisoner, the date and time of incarceration and release, to be posted by the tenth calendar day of each month for the period spanning the preceding month, which shall record the number of meals served to prisoners on each day, and shall make affidavit as to the correctness thereof and file the same monthly with the board of supervisors. Such log shall remain on file with the board of supervisors as other records of said board and shall be made available to the State Department of Audit upon request. No claims for the cost or expenses of feeding prisoners shall be approved by the board of supervisors for any month unless and until such log for that month is filed.

HISTORY: Laws, 1976, ch. 457, § 2, eff from and after October 1, 1976; Laws, 2020, ch. 411, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment substituted "to be posted by the tenth calendar day of each month for the period spanning the preceding month, which shall" for "to be posted daily, which shall" and "served to prisoners on each day, and shall" for "served to prisoners at each mealtime and the hours of the day served, and shall."

CHAPTER 29.

LOCAL AND REGIONAL RAILROAD AUTHORITIES

§ 19-29-39. Property and income of authority exempt from taxation.

Editor's Notes — Laws of 2016, ch. 483, § 6 provides:

"SECTION 6. All railroad properties and facilities in this state owned by a limited liability company or other entity that is wholly owned by a railroad authority created under Section 19-29-1 et seq., shall be exempt from ad valorem taxation to the same extent as property belonging to such a railroad authority. For the purposes of this section, the term "railroad properties and facilities" means and has the same definition as that term has in Section 19-29-5."